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# Transcript of the Testimony of **Public Meeting**

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**Coast Guard Public Meeting**

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## COAST GUARD PUBLIC MEETING

U.S. COAST GUARD PUBLIC MEETING held at  
the Hilton Riverside Hotel, 2 Poydras  
Street, New Orleans, Louisiana 70140, on  
Monday, the 27th day of January, 2003.

## REPORTED BY:

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## COMMANDER ENGLEBERT:

Good morning, for the third time,  
and welcome to the public meeting. I'm  
Commander Sue Englebert, I will be your  
facilitator today. As I said, the  
attendance sheets will be available. Please  
remember to sign them and it will be part of  
our public record.

At this time could you please  
change your beepers or your cell phones to  
silent mode so that the people around you  
can hear the discussion and so that your  
people at your office know that you're  
paying attention to your port security and  
your security and the maritime environment  
needs. So beepers and cell phones, please.

Regardless of what you have heard,  
there will be breaks today, although I have  
to admit that they will be arranged in a  
logical fashion around the subject matter.  
So the public notice said that lunch would  
be at 1300, if we can do that, we will. If  
we're almost done or reaching a logical  
break point in the subject matter, we will  
break at that time.

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If you need to step out for a  
minute on your own, you certainly are  
welcome to do so. Once again, your  
convenience is hoped for more than anything  
else.

There also will be a chance for  
the media to speak to our members up here on  
the podium. It will be at noon in this room  
up in the front, so if you're from the  
media, we welcome you. I would like to  
point out right now Lt. Rice and Lt. Manino,  
would you please stand, wave your hands or  
do something. They're in the back of the  
room. They're your point of contact for the  
media. That's Lt. Rice. And please ask one  
of the staff up here at the front table if  
you need introductions to them.

The purpose Of this meeting is to  
listen to your comments, to the questions  
that were posed on the Federal register On  
30 September about maritime security.

At this time I would like to  
introduce Rear Admiral Larry Hereth, who's  
the Director of Port Security for the U.S.  
Coast Guard, to set the stage.

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## ADMIRAL HERETH:

Good morning, everybody.  
Let's see if we can get everything  
working here.

We're really overwhelmed with the  
attendance and really pleased, to be honest  
with you. This is a great crowd and we  
apologize for the lack of seats. They're  
trying to get some more set up in the back  
so, hopefully, we can accommodate everybody.

We're embarking here on an  
important venture and the public meetings  
were set up to really dive into the  
discussion with people that are working in  
the issues, working along the waterfront  
every day, so we really look forward to  
hearing your personal viewpoints on some of  
these initiatives and look forward to  
talking to you in detail.

We have the day kind of structured  
in such a way that we're going to go through  
lots of different questions and we --  
hopefully, you have received a handout, the  
notice, public notice. There should have  
been a stack outside and if you don't have

1 (Pages 1 to 4)

<p style="text-align: right;">Page 5</p> <p>1 one, I'm sure somebody can roust up one for  2 you. That's where the 40 questions are  3 located and will help give you a better  4 sense of the structure of the day.  5 I would like to go through just a  6 couple of slides to kind of set the stage,  7 but before I do that, I want to take notice  8 of some people in the audience. First of  9 all, we have lots of Coast Guard folks here  10 today. This is a big deal to us. This  11 regulation initiative is as big as the regs  12 that were enacted under the Oil Pollution  13 Act. So from the Coast Guard standpoint,  14 this is a big deal to us and we're very  15 interested in making sure this comes off  16 very smoothly.  17 Helping us down here has been  18 Captain Ryan and his staff. I would like  19 Captain Ryan to just stand, and anybody with  20 the 8th Coast Guard District, if you could  21 just stand so people could kind of get a  22 sense of some of the folks and where they're  23 represented, raise your hand or stand.  24 Captain Ryan, where are you?  25 UNIDENTIFIED SPEAKER:</p>	<p style="text-align: right;">Page 7</p> <p>1 Guard Headquarters here. We've assembled  2 three reg projects teams of about ten people  3 each, and we have a Steering Committee on  4 top of those folks and another ten people,  5 so we've got a lot of people focused on  6 these particular projects. If I could just  7 invite the folks from Coast Guard  8 Headquarters to raise their hand and you can  9 kind of get a sense of folks from the Coast  10 Guard Headquarters here.  11 Okay. We've got all sorts of --  12 we've got reg writers, we've got economists,  13 we've got project team leaders, we have good  14 commanders that are spearheading lots of  15 these efforts, and Captain Dale and  16 Commander Englebert, who is going to serve  17 as your facilitator today.  18 Sue is pretty well designed for  19 this job. She's done a lot of public  20 meetings before, but, also, she's been with  21 this security buildup internationally and  22 through the Marine Transportation Security  23 Act, which just passed, so she has got a lot  24 of corporate history involved in that.  25 Plus, we just found out she's going to be a</p>
<p style="text-align: right;">Page 6</p> <p>1 Way in the back.  2 ADMIRAL HERETH:  3 Oh, there you are. He's the  4 answer man down here, he and his staff know  5 it all.  6 Captain of the Port in New Orleans  7 here is Ron Branch. Ron, if you could stand  8 and give us a wave. Okay.  9 And, Ron, any members of your  10 unit, can you just raise your hand or  11 something so people generally know where  12 they are. Okay. All up here in the front.  13 Detailed New Orleans questions, there's some  14 folks in the back.  15 We also have some other Captains  16 of the Ports. Bill Wagner, I understand, is  17 here from Corpus. Bill, could you identify  18 yourself?  19 No Bill. How about Steve Garrity,  20 I saw him, from Morgan City. Okay, Steve.  21 And Don Thompson from Galveston. Is Don  22 here? Don? Okay/  23 Thank you.  24 I would also like to recognize  25 that we have quite a few folks from Coast</p>	<p style="text-align: right;">Page 8</p> <p>1 CO in St. Louis, so she'll be very attuned  2 to talking about security on the rivers and  3 how that affects the towing industry.  4 This reg project is being handled  5 a little bit differently than your normal  6 reg project, and I will talk about some of  7 the administrative ways in which we're doing  8 that as we go through a couple of slides,  9 but let me just say that we have established  10 what I think is going to be a wonderful  11 partnership arrangement with MARAD and with  12 the Transportation Security Administration.  13 And I would like to recognize those folks.  14 I have to my left Steve Rybicki,  15 and, Steve, if you can just offer a  16 perspective from TSA, I would appreciate it.  17 Introduce yourself.  18 MR. STEVE RYBICKI:  19 From the TSA, other than our  20 Dallas Public Affairs Specialist, Ed  21 Martelle, could you stand, Ed. From our  22 Counsel shop, Marty Thompson, our Deputy  23 General Counsel, and Denise Krepp, Tony  24 Furst, Ash Chatterly, Bud Hunt and myself  25 from the TSA headquarters in Washington, now</p>

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1 in Pentagon City as of this week.  
2 ADMIRAL HERETH:  
3 Thanks. And then right over on  
4 the end of the guys up here is Ray Barberesi  
5 from MARAD.

6 Ray, do you have any comments to  
7 add?

8 MR. RAY BARBERESI:

9 Thanks, Admiral.

10 My name is Ray Barberesi. I'm the  
11 Director of the Office of Ports and Domestic  
12 Shipping at the U.S. Maritime  
13 Administration. My side job is Executive  
14 Director of our Marine Transportation  
15 System, National Advisory Council.

16 I would like to thank you,  
17 Admiral, the Coast Guard and TSA for being  
18 here with us today. We go through, I guess,  
19 the months and the years ahead with some  
20 degree of trepidation, but I know we have  
21 great folks at the helm. We at the  
22 Department of Transportation are looking  
23 forward to continuing the relationship, the  
24 close relationship that we have always had  
25 with the U.S. Coast Guard, with the

1 Gulf and know so many people that either  
2 work down here, that either were in the  
3 Coast Guard before or I've met in the  
4 industry, either on the Strike Team or when  
5 I was stationed down here in New Orleans.  
6 So it's nice to be back in New Orleans to do  
7 this first public meeting, and we really  
8 look forward to hearing from you directly.

9 What I want to do is just go through  
10 a couple of slides to frame the discussion  
11 and to frame where we are with the reg  
12 projects and with some of the work that's  
13 been going on in the security world. I'm  
14 totally immersed in the security world now  
15 as the Director of Port Security.

16 My boss is Admiral Paul Pluta, who  
17 runs the Marine Safety and Security  
18 Environmental Protection Program for the  
19 Coast Guard. He's appointed me with the  
20 security responsibilities, so we're kind of  
21 doing a hand-off. He's done a lot of the  
22 initial work. I just reported in a couple  
23 of months ago from San Francisco as Captain  
24 of the Port out there, so I'm steeped up to  
25 here with security, and it's like drinking

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1 relationship we've developed with the TSA.

2 I don't have anyone here with me.  
3 Any of you who know the Maritime  
4 Administration know that we're small and  
5 have a lot of ground to cover. So I don't  
6 have anyone else to point to, but,  
7 hopefully, I can point to all of you who  
8 have long been our customers in the marine  
9 transportation industry and recognize  
10 yourselves as part of all of us being here  
11 today and use this time efficiently and  
12 prosperously to help with the Coast Guard as  
13 it's reaching out to form the new  
14 regulations and provide the security for our  
15 marine transportation system and the nation.

16 Thanks very much.

17 ADMIRAL HERETH:

18 Thank you. I really think the  
19 structure we have put together for this is  
20 going to be viewed as a good model for how  
21 to do regulations, but one of the most  
22 important keys is the input that we get from  
23 you. And as I was walking around before the  
24 meeting, it's like old home week. I was  
25 stationed down here a couple of times in the

1 from a fire hose, as they say, but we're off  
2 to a quick running start, and I want to go  
3 through a couple of slides with you.

4 I want to talk briefly about what  
5 the problem is as we see it, what we see as  
6 the solution, what some of the challenges  
7 are, and then kind of way ahead, our plan  
8 for that.

9 I guess I would start by saying  
10 change is upon us. We're living in a  
11 different world, and it's not going to go  
12 back to where it used to be. The threat is  
13 definitely here, you can read about the  
14 threat in the papers almost every single  
15 day. You have seen it in a variety of  
16 circumstances, you've seen the pictures,  
17 you've heard the reports. It's real. I can  
18 tell you it's real and it's not going to go  
19 away.

20 Couple that looming threat with  
21 the fact that our marine transportation  
22 throughout the United States is vulnerable.  
23 This has been looked at by any number of  
24 different folks, study groups, commissions,  
25 reporters, you name it. They all conclude

3 (Pages 9 to 12)

<p style="text-align: right;">Page 13</p> <p>1 that the marine transportation system in the 2 United States is vulnerable.</p> <p>3 By and large we focused on safety 4 for the last several decades, and our 5 security regs, when you actually get right 6 down to it, are very minimal along the 7 waterfronts. And I would say the marine 8 transportation system in the United States 9 is the economic backbone of the country, and 10 it's worth protecting.</p> <p>11 When you look at the stats, 12 \$800 billion worth of goods move through the 13 ports or along the rivers of the United 14 States every single year. That's a huge 15 amount of goods that move through the 16 waterways. When you consider that in light 17 of the \$10 trillion economy the United 18 States has, the value of the goods present a 19 sizable amount of that GDP. Plus, if an 20 accident were to happen in the marine 21 transportation mode, I think the ripple 22 effect would be significant.</p> <p>23 Something could not just happen 24 here in New Orleans without the entire Gulf 25 Coast being affected in some way, shape or</p>	<p style="text-align: right;">Page 15</p> <p>1 cooperation on the U.S. positions, and there 2 were 76 industry meetings actually 3 representing over 8,000 people in those 4 meetings to develop the U.S. position.</p> <p>5 So to get through, and at the 6 Diplomatic Conference this past December, 7 have 102 nations sign on the dotted line, 8 so to speak, was a marvelous accomplishment, 9 I think sets the stage for development of 10 security protocols and procedures and 11 regulations in the United States.</p> <p>12 That was carried through by the 13 Congress, 107th Congress passed the Marine 14 Transportation Security Act, and the 15 President signed that act into law on the 16 25th of November. So only since the 25th of 17 November have we been marching ahead with a 18 clear direction on what way we're going to 19 go in the regulatory area.</p> <p>20 The concept that we think needs to 21 be engaged here is what we would call 22 layered defense that pushes our borders out. 23 We've got to set up an array of security 24 obstacles that the bad guys have to get 25 through that's impenetrable, and that has to</p>
<p style="text-align: right;">Page 14</p> <p>1 form. I'll almost guarantee you that there 2 would be a demand for immediate ratcheting 3 up of security along the Gulf Coast if 4 something happened in New Orleans.</p> <p>5 So I think we have to be careful 6 and work together to make sure that we push 7 this thing in the right direction. We have 8 to change and we have to change permanently.</p> <p>9 We believe that the solutions in 10 the security world have to come both 11 internationally and domestically. The 12 concept of rising tide lifts all boats, I 13 think, has to prevail here. We believe that 14 bettering national security improves 15 security in the United States.</p> <p>16 The recent SOLAS Amendments that 17 were just covered represent an astounding 18 display of international cooperation. And 19 building up to that, the U.S. positions were 20 widely discussed. There were like 19 21 international meetings, there were 13 public 22 meetings that the Coast Guard sponsored with 23 all the advisory committees they were 24 involved with. We worked with about 26 25 other Federal agencies for clearance and</p>	<p style="text-align: right;">Page 16</p> <p>1 start, not here in the Port of New Orleans 2 or not at Southwest Pass, but over on the 3 other side of the oceans, and we feel one of 4 the underlying principles and one of the 5 underlying drivers in all the security 6 effort is to push our borders out. And, 7 really, I would say that you can think of it 8 in kind of three dimensions.</p> <p>9 Number one is what are we doing 10 overseas, and we're doing lots. What are we 11 doing enroute, and then what are we doing 12 when the vessel gets into U.S. waters. And 13 we have activities going along in each of 14 those areas, but I can tell you this, no one 15 agency can do it all. It's a team effort. 16 We've all got to be enjoined in this process 17 of ratcheting up security, but it has to be 18 a layered defense.</p> <p>19 The challenge, one of the 20 challenges that we all face is that the 21 marine transportation system is quite 22 different than fixing security at an 23 airport. In an airport you have a lot of 24 consistency. Maybe the big difference is 25 the tail paint, but I tell you what, in the</p>

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1 marine transportation system you have a huge  
2 diversity and variety of operations, types  
3 of vessels, types of hazards, all sizes,  
4 ranging from the very small to the very  
5 large mega ports that exist around the  
6 country. And then on top of that you have a  
7 huge diversity of stakeholders out there  
8 that each have a great deal of expertise in  
9 their particular segment of the industry.  
10 So it's going to be quite the challenge to  
11 blend all those opinions and bodies of  
12 expertise into a regulatory approach that  
13 covers the waterfront and covers the vessels  
14 plying those waters.

15 One of the biggest challenges that  
16 we're going to face is this balance, finding  
17 the right balance between tight security and  
18 the flow of commerce. They're almost on  
19 opposite sides of the spectrum. You know,  
20 the safest port is the port that doesn't  
21 operate, but we can't have that in the  
22 United States. We're too heavily dependent  
23 on the movement of goods, so, obviously, we  
24 have to find some balance between the flow  
25 of commerce and the tight security that we

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1 need around the country.

2 When you consider it, the marine  
3 transportation system involves or has  
4 associated with it all the elements of our  
5 national interests. And national interests  
6 are usually defined as people, property, the  
7 environment, the economy, national symbols  
8 and national defense. And when you think  
9 about it, the marine transportation system  
10 has it all, and that's why, when you have  
11 that many dimensions and that large number  
12 of stakeholders, it presents a very complex  
13 problem to deal with.

14 Now the Coast Guard's approach,  
15 along with the other agencies, has been to  
16 focus on a risk-based system to deal with  
17 those complexities. We think that's the  
18 most effective way to deal with the problem.  
19 We're focused on finding effective, sensible  
20 solutions that are also feasible to  
21 implement.

22 We're going to target the greatest  
23 vulnerabilities and the greatest  
24 consequences. I think that's where to spend  
25 the money.

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1 Another challenge that we have is  
2 to strike a balance between consistency, but  
3 yet, some way, find some way to be flexible  
4 and accommodating to the different segments  
5 of industry. Each segment of industry is  
6 different. Each has its own concerns and  
7 methods of operating, and I think we have to  
8 be sensitive of that and make sure that we  
9 engage with the different segments of  
10 industry, be they passenger vessels, be they  
11 container ships, be they liquid bulk or any  
12 other segment of industry. And there are  
13 all kinds of stakeholders out there that we  
14 have to engage with and learn from, and  
15 that's, again, one of the purposes of this  
16 public meeting.

17 We are looking to  
18 performance-based standards versus  
19 prescriptive, not prescriptive standards, so  
20 we're interested in your thoughts along how  
21 we can devise those standards so that they  
22 make sense to you.

23 One of the good things is that  
24 we'll try to level the playing field, and  
25 that will provide a consistent approach

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1 around the country. We think that that's an  
2 important concept. But we also subscribe to  
3 this equivalent level of security concept.  
4 If we put a standard out there and it's  
5 performance-based, we will propose a method  
6 of doing business and operation, but we're  
7 expecting and willing to visit and accept  
8 equivalent levels of security. I think  
9 that's one of the underlying principles upon  
10 which we're building these reg projects.

11 Another challenge is going to be  
12 the cost, how do we deal with the cost. In  
13 the public notice you have seen some cost  
14 data and that reflects a first-year  
15 implementation cost of \$1.4 billion, which  
16 sounds like a huge figure, and it is. No  
17 question about it. That figure doesn't  
18 include all the costs and all the monies  
19 which are considerable that have been spent  
20 to date. But, nevertheless, it's an  
21 expensive proposition, but it's the right  
22 thing to do.

23 Let me provide just a little bit  
24 of context around that.

25 As I mentioned before, the value

5 (Pages 17 to 20)

<p style="text-align: right;">Page 21</p> <p>1 of goods that move through the marine 2 transportation system was \$800 billion last 3 year, roughly. We saw that the West Coast 4 port shutdown that occurred just recently, 5 there were some estimates and studies done 6 that put the high figure at \$2 billion a day 7 in terms of lost revenues and lost earnings. 8 So the impact of port shutdowns, 9 for whatever reason, particularly if they're 10 caused by security, could be extensive and 11 could be very costly. 12 And then one kind of humorous note 13 that I found, last year in the United 14 States, about five and a half billion 15 dollars was spent on video games, so to put 16 it in context, the \$1.4 billion seems like a 17 large figure, and it is, but when you put it 18 in context, it seems like the right thing to 19 do, especially when you consider that if we 20 don't do this and we have an incident, 21 there's going to be dramatic consequences, 22 there's no question about it. The ripple 23 effect, as I mentioned before, will not just 24 affect New Orleans or one port, it's going 25 to extend throughout an entire coast</p>	<p style="text-align: right;">Page 23</p> <p>1 everybody to be operating under approved 2 plans within one year from that date. So 3 this is going to be a very challenging time 4 line to line up with. 5 Also, I would add that this is a 6 complex process, but we've been cooperating 7 with lots of different agencies. I think 8 there are 13 different agency emblems up on 9 the screen. We're engaged every single day 10 with discussions with many of those agencies 11 on lots of different security topics. 12 We're particularly pleased that 13 TSA and MARAD are close to us. They have 14 statutory authorities and experience that 15 they can bring to the table that I think 16 will be very helpful in the whole process. 17 Plus, they've agreed to engage and detail 18 some folks over to the Coast Guard to work 19 with us in a very close manner, so we look 20 forward to that process. 21 But the key input is really what 22 we hear from you. The public meetings, and 23 we're doing seven around the country, this 24 is the first one, will hit all coasts, the 25 Great Lakes and the rivers, and we really</p>
<p style="text-align: right;">Page 22</p> <p>1 probably, if not nationally. So, really, 2 you have to ask yourself "How can we not 3 tighten the system up?" 4 We did ask MARAD to be prepared to 5 talk about the grants that are available. 6 Congress, as you know, during the passage of 7 the legislation, MTSA, funding was a big 8 issue and still is a big issue, it's on the 9 table for discussion. 10 One of the things to offset some 11 of the cost was the grant program that was 12 established and MARAD has the lead on that, 13 and I'm glad Ray is here to be able to talk 14 about that and tell you the status of that 15 program. 16 And let me just say that we're on 17 a very, very ambitious time line. We're 18 just getting out of the blocks, but this is 19 a sprint. 20 The ISPS Code, the International 21 Code, comes into effect in July 2004. We 22 expect to have interim final rules out by 23 this summer, by probably June, and that will 24 trigger some plans that are required to be 25 submitted to the Coast Guard, and we expect</p>	<p style="text-align: right;">Page 24</p> <p>1 look forward to hearing from you 2 individually. 3 Now, we're going to go through a 4 fairly sequential process where we're asking 5 lots of questions and asking you to respond. 6 We're doing that in a manner that's a little 7 structured because we need to get your input 8 and then digest it and give it to the reg 9 writers so we can make sure we accommodate 10 that in the reg process. 11 There are a number of different 12 ways that Sue will talk to you about and 13 that are noted in your public meeting notice 14 on how you can give us comments. 15 We have an electronic docket, you 16 can go on the Internet and dump some 17 comments to us, provide some comments to us 18 through the mail, by fax, or electronically. 19 You can also provide security sensitive 20 information to us, also, if you need to 21 protect some information. 22 So, again, we're eager to hear 23 from you. We're also pleased to engage with 24 lots of different folks around the country, 25 the trade associations, the advisory</p>



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1 councils. We're going to meet with  
2 Congressional staffs. We've had several  
3 meetings already, so we're doing a lot of  
4 outreach to understand and talk to people  
5 and find out what their concerns are so we  
6 can blend them into the reg process.

7 I'm also pleased Captain Ryan and  
8 his staff have taken the opportunity to  
9 leverage off of this meeting. I think  
10 there's a Gulf Safety Council meeting  
11 tomorrow. I know Commander Paskewich is  
12 doing a lot of work on the rivers with AWO  
13 and the towing industry, and so we look  
14 forward to some of those work groups  
15 producing some good input to this whole  
16 process.

17 This is an important deal. MTS is  
18 valuable to the country and, really, your  
19 input in these projects will help bolster up  
20 the safety and the security and the mobility  
21 of the whole system, so please bear with us  
22 as we go through this process today. Give  
23 us your comments in some way, shape or form,  
24 and make your voice heard.

25 We're interested in your concerns

1 What I intend to do is review,  
2 using Appendix A of the notice, the  
3 questions pertaining to that section, then  
4 we will ask for public comment, and they  
5 will be grouped in General Security, Port,  
6 Vessel, Facility and then Others.

7 There will be an opportunity at  
8 the end, if you have general questions or  
9 general comments that have not been  
10 discussed, we will leave time at the end of  
11 the session for you to make those comments.

12 You need to know that everything  
13 that's discussed here today is part of the  
14 public docket. There is a transcript  
15 verbatim being made and that will be posted  
16 on the public docket. They will be  
17 available on the docket 14 days from today.

18 When I ask for comments, I would  
19 appreciate it if you would strategically  
20 place yourself behind the mike so that we  
21 can have the comments in a logical manner.  
22 If that doesn't work, I will give you other  
23 instructions. But for right now, if you  
24 have a comment, please make your way to the  
25 microphone and line up in some fashion, and

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1 and we want to do the right thing on the  
2 security reg projects. So, again, let me  
3 turn it over to Sue, and we'll get started  
4 on some of the questions.

5 **COMMANDER ENGLEBERT:**

6 Okay. There's still some of you  
7 that are standing. For the people setting  
8 up the chairs from the hotel staff, please  
9 keep the microphone free in the middle.

10 And, also, all the people that are  
11 sitting at tables, this is going to be just  
12 like church. Everybody ready? Please move  
13 in so that we can put two more people at the  
14 end of each table.

15 There's also chairs at tables that  
16 are empty. So for all the people hanging  
17 around in the back, there's a chair for you  
18 up here. We're going to pretend this is  
19 Christmas service.

20 Contrary to the slides, the  
21 meeting will be broken up into five  
22 sections, a General section and a Port  
23 Security section, Vessel section, Facility  
24 section, and Other Security Provision  
25 section, so there will be five chances.

1 we will take you one at a time.

2 Commenters are asked to briefly  
3 summarize, especially if they have written  
4 comments. If you have written comments that  
5 you intend to submit to the docket, please  
6 summarize your comments here. Obviously, we  
7 have a great amount of material to go  
8 through by the end of the day, and I do  
9 intend for each commenter to have a maximum  
10 of three minutes, and there is a timer. You  
11 can see a very big red clock here that you  
12 will be able to see even clearer when you  
13 speak up to the mike, and I have a  
14 three-minute timer here.

15 What I intend to do is, when you  
16 have a minute left, I intend to put this up.  
17 It's yellow, for those people that can see  
18 it, and it means that you need to start  
19 summarizing your comment. And at the  
20 three-minute mark, I will most likely ask  
21 you to be complete with your comments.

22 This, hopefully, will allow the  
23 majority of you to have your moment in the  
24 sun on the issue that you wish.

25 Now, if a commenter comments and

7 (Pages 25 to 28)

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1 you whole-heartedly agree with that comment,  
2 and you have nothing of substance to add to  
3 that comment, we would appreciate it if you  
4 would simply introduce yourself and say you  
5 agree with the comment from American  
6 Waterways Operators, from API, or whoever,  
7 and reference it, and that will assist us.

8 If you have something obviously to  
9 add to the comment, then you could do it  
10 that way.

11 The docket will be closed on  
12 February 28th, just to remind you. I'll  
13 remind you again at the end.

14 Right now we're going to have  
15 about an eight-minute break for you to stand  
16 up and stretch your legs before we go into  
17 the substance. We will resume at quarter to  
18 10:00.

19 (Whereupon, a brief recess was taken.)

20 COMMANDER ENGLEBERT:

21 We will begin.

22 ADMIRAL HERETH:

23 A couple of comments as people are  
24 sitting down.

25 We had a question about are the

1 Jim, if you could just stand up and wave  
2 your hand. Jim is now the Director of Field  
3 Operations down here in New Orleans for this  
4 district.

5 Jim, where are you? There he is  
6 back in the back.

7 Thank you very much.

8 COMMANDER ENGLEBERT:

9 Now that I see there's plenty of  
10 chairs, I will assume that those people who  
11 are standing choose to stand, but there are  
12 chairs in the front here. Okay.

13 Like I said, I will review the  
14 first part of the General Security  
15 Provisions in the notice. Those of you that  
16 have copies, you can follow along on pages  
17 79745, Appendix A.

18 The first topic that is discussed  
19 is Obligations of Contracting Government.

20 These obligations extend to  
21 setting MARSEC levels, establishing  
22 communication procedures, both with the  
23 Coast Guard and other agencies, as well as  
24 communications the Coast Guard would do with  
25 you as a maritime community, and also

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1 comments that are made today going to be  
2 part of the public docket, and, yes, they  
3 are, clearly. We have a court reporter up  
4 here that's transcribing the events. All  
5 those comments will be entered into the  
6 docket. But there are several other ways in  
7 which you can get your comments on the  
8 record, so to speak, and they're noted in  
9 the public notice. Basically, we have a  
10 docket set up to receive documents and you  
11 can do it on the Internet.

12 If anybody has any questions, see  
13 one of the staff about that, and we'll coach  
14 you along on the specifics of that. But  
15 it's a very easy process to do nowadays  
16 electronically. You're certainly welcome to  
17 fax or mail stuff in, but probably the  
18 easiest for you is electronically.

19 I would like to introduce one  
20 other person that I wasn't aware was here,  
21 Jim Hines, with Customs, did a lot of work  
22 with the Coast Guard up in D.C.

23 Customs has a wonderful initiative  
24 underway in several different dimensions  
25 dealing with supply chain integrity. And,

1 providing points and means of contact for  
2 the maritime industry.

3 We asked one question. We asked a  
4 few questions, a summary of the question  
5 would be, would this communication process  
6 outline meet the needs of the ports and the  
7 vessel.

8 The second question talked about  
9 recognized security organizations. As most  
10 of you know, the International Code allows a  
11 contracting government to delegate to an  
12 RSO. The Coast Guard in its public notice  
13 announced that it does not intend to  
14 delegate authority to RSOs at this time;  
15 however, we may delegate in the future.

16 We're asking you to comment on  
17 whether the Coast Guard should delegate its  
18 authority, and if there should be additional  
19 qualification or competency requirements for  
20 these RSOs.

21 Next we asked you, we had a series  
22 of discussions on other organizations.  
23 Recognizing that security assessments and  
24 plans may require help, there are no  
25 standards currently set for this with the

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1 exception of the discussion on RSO  
 2 competencies and the ISPS Code, Part B.  
 3 We asked you a series of questions  
 4 such as should there been professional  
 5 standards, should the Coast Guard vet those  
 6 standards and the organizations that claim  
 7 to meet them, and do you have alternative  
 8 standards that you would suggest we use.  
 9 That goes to something like ISO 9000.  
 10 The fourth question in the notice  
 11 talks about alternates and equivalencies.  
 12 SOLAS permits alternatives and equivalencies  
 13 where appropriate, just like it does for,  
 14 let's just say, firefighting equipment or  
 15 fire safety plans.  
 16 The Coast Guard proposes that if  
 17 you choose to request these alternates or  
 18 equivalencies, that the submission format  
 19 would be similar to what we now have in  
 20 place under 46 CFR 30 or 46 CFR 70.  
 21 The questions we ask you are:  
 22 Would you request an alternative or  
 23 equivalency and is the submission that we  
 24 propose, the format for the submissions that  
 25 we propose adequate.

1 committees to develop local requirements for  
 2 DoSs dependent on their port security plan.  
 3 We also intend to provide some  
 4 sort of communication guidance on DoSs, and  
 5 we ask your opinion on what format that that  
 6 guidance should be, regulations, or  
 7 something like a navigation vessel  
 8 inspection circular.  
 9 Question 7 talks about Security of  
 10 Information.  
 11 As you know, both our Maritime  
 12 Transportation Security Act and the ISPS  
 13 Code require that information of a security  
 14 nature be protected from unauthorized access  
 15 or disclosure. The Coast Guard, of course,  
 16 in compliance, needs to verify and approve  
 17 this information such as a security plan.  
 18 Our intention is to designate  
 19 security plans and affiliated paper, such as  
 20 an assessment, as security sensitive,  
 21 similar to what the aviation community does.  
 22 We ask you two questions: Whether  
 23 or not this SSI classification is  
 24 sufficient, and is there an alternative way  
 25 that you can suggest for us to insure that

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1 The next question, 5, is Accepting  
 2 Industry Standards.  
 3 For those non-SOLAS vessels, those  
 4 vessels on domestic voyages only, the Coast  
 5 Guard has given you notice in its Appendix A  
 6 that it may accept industry standards as  
 7 equivalent or alternative.  
 8 We intend that that alternative of  
 9 equivalency be at a nationwide level, and  
 10 that possibly third-party audits would be  
 11 used to verify that you comply with the  
 12 industry standard.  
 13 The questions we ask under No. 5  
 14 are: Do you know of an industry standard  
 15 that may be considered equivalent, and if  
 16 there was an industry standard for you,  
 17 would you use it.  
 18 Question No. 6 under General  
 19 Security talks about the Declaration of  
 20 Security.  
 21 The International Code mandates  
 22 that we have national requirements for DoS,  
 23 DoSs, and it's the Coast Guard's intention  
 24 to outline national requirements and also  
 25 allow captain of the ports and port security

1 unauthorized access or disclosure of this  
 2 information is available.  
 3 In summary, Questions 1 through 7  
 4 talk about General Security Provisions.  
 5 They talk about the points that are on the  
 6 screen. Communications, recognize security  
 7 organizations, other organizations in  
 8 security, alternatives and equivalencies,  
 9 industry standards, declaration of security  
 10 and security of information.  
 11 At this time those commenters  
 12 wishing to talk on these subjects, please  
 13 approach the microphone and be recognized.  
 14 To further explain, as you  
 15 approach the microphone, the first thing you  
 16 need to tell us is your name, the company or  
 17 organization that you represent, and your  
 18 position in that company. And I please  
 19 remind everybody in the room that this is a  
 20 public document.  
 21 Thank you. You have three  
 22 minutes, sir.  
 23 MR. VINCENT COTTONE:  
 24 Good morning. My name is Vince  
 25 Cottone. I currently chair the Gulf Safety

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1 Committee and I'm an environmental engineer  
2 with ChevronTexaco's Deep Water Business  
3 Unit.

4 The Gulf Safety Committee  
5 appreciates this opportunity to provide  
6 comments on the Coast Guard's possible  
7 rule-making concerning maritime security and  
8 how it relates to offshore oil and gas  
9 operations.

10 The Gulf Safety Committee is a  
11 civilian-run maritime transportation system  
12 committee that grew out of a series of  
13 informal meetings among offshore Gulf of  
14 Mexico waterway stakeholders, users and  
15 regulators, that commenced on October 10th,  
16 2001, with the support of Commander of the  
17 8th Coast Guard District.

18 Membership includes commercial  
19 fishing, recreational diving and fishing  
20 interests, shipping, offshore supply,  
21 vessel-towing industry, oil and gas  
22 industry, regulatory agencies and others  
23 with interest in the Gulf of Mexico.

24 The mission of the Gulf Safety  
25 Committee is to provide a form through which

1 mission. Among these are voluntary marine  
2 communications protocol designed to enhance  
3 communication between fishermen and offshore  
4 platforms. We have also developed  
5 communications procedure to report  
6 suspicious activities in the Gulf. This  
7 product is available either as a poster or  
8 as a wallet-size card.

9 Our fishery subcommittee is  
10 currently engaged with the State of  
11 Louisiana on its initiatives to enhance  
12 their Rigs to Reef program.

13 As a way to promote a better  
14 understanding of each user's group's unique  
15 issues, we have provided presentations to  
16 the public on offshore oil and gas facility  
17 hazards, Coast Guard security and safety  
18 zones and the type of fishing gear used by  
19 fishermen in the offshore environment.

20 These subcommittees have several  
21 other activities currently underway,  
22 including development of an industry  
23 guideline on security for oil and gas  
24 facilities and enhanced communication  
25 procedures for quick dissemination of

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1 the experience, issues and concerns of all  
2 Gulf of Mexico waterway stakeholders, users  
3 and regulators can be expressed and to make  
4 the Gulf of Mexico a cleaner, safer and more  
5 secure, economically viable region for  
6 commercial and recreational use.

7 Comments made on behalf of the  
8 Gulf Safety Committee are submitted without  
9 prejudice to any members' rights to have or  
10 express different or opposing views.

11 The Gulf Safety Committee was  
12 formalized in July 2002 with appointment to  
13 the selection of executive steering board  
14 members and election of officers.

15 Since then, we have been very  
16 active. We have had several general  
17 meetings at which the public was invited to  
18 participate. We have formed standing  
19 subcommittees on security, communications  
20 and fisheries, and we have participated in  
21 various conferences and forums in an effort  
22 to inform others of the existence of the  
23 Gulf Safety Committee and its mission.

24 Our subcommittees have produced  
25 several products designed to implement our

1 changes in national security threats.

2 I provide this as a way to  
3 indicate that the short time the Gulf Safety  
4 Committee has existed, we are active in many  
5 areas of maritime security.

6 The offshore oil and gas industry  
7 already has several existing emergency plans  
8 that address concerns associated with  
9 maritime security. Companies operating out  
10 of the Gulf of Mexico CS have  
11 agency-approved emergency plans and also  
12 response plans that already address incident  
13 responses and these plans are exercised  
14 yearly.

15 American Petroleum Security  
16 guidelines in place can be used as a base  
17 for offshore facilities security plans. API  
18 is currently adding vulnerability and risk  
19 assessment guidelines. We propose using  
20 these to address questions in the  
21 December 30 Federal Register notice  
22 concerning requirements for fixed and  
23 floating and MODUs engaged in drilling.

24 COMMANDER ENGLEBERT:

25 Thank you, sir. I'm sorry to

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1 interrupt you, but you're welcome, if you  
2 have written comments, to submit them to the  
3 docket. And, also, if you have written  
4 statements, we would appreciate if you would  
5 summarize them.

6 MR. VINCENT COTTONE:

7 Will do. Thank you.

8 COMMANDER ENGLEBERT:

9 Okay. Thank you. Next.

10 MR. ALAN SPACKMAN:

11 Yes. Alan Spackman, International  
12 Association of Drilling Contractors.

13 We would like to plead with the  
14 Coast Guard to recognize the Gulf Safety  
15 Committee and its Security Committee as an  
16 area committee under the Maritime  
17 Transportation Safety Act for offshore  
18 industry. The industry functions across  
19 many captain of the port boundaries, it  
20 involves both maritime and aviation facility  
21 assets to support it, and without those  
22 assets, it cannot function effectively.

23 To confine the industry to a  
24 single captain of port zone in defining its  
25 area of plans would hamper the industry in

1 grandstand, we have a number of members here  
2 today who probably will not want to make  
3 comments, but so that you have a feel for  
4 their presence, could I ask just AWO  
5 members, would you mind standing for a  
6 moment?

7 They may come up and want to  
8 elaborate on my comments, but, in general,  
9 they are in agreement with the positions  
10 that we're taking today.

11 In reference to Question 1, the  
12 Coast Guard should formally link the MARSEC  
13 levels to the HSAS levels as described in  
14 the notice. The proposed means of  
15 communicating the MARSEC levels and changes  
16 in security levels are generally very  
17 effective; however, AWO members do have  
18 concerns about how each individual company  
19 and each individual towboat will learn about  
20 local changes in the MARSEC levels.

21 To give you an example, a towing  
22 company moving on the Gulf Coast here may  
23 potentially move through nine different  
24 marine safety zones and units in one move,  
25 and it's very important that they have a way

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1 its ability to develop a comprehensive  
2 guideline for offshore facility security.

3 We plead that the MODUs be  
4 included within that plan. The IMO, in  
5 developing the ISPS Code, clearly recognized  
6 MODUs were a distinct type of vessel not  
7 engaged in normal commerce, and we would  
8 note for the Coast Guard's activities, that  
9 when the Coast Guard allows such MODUs into  
10 port, when they're not propelled, they are  
11 required to conform with oversize tow  
12 permits that could easily be expanded to  
13 include security concerns by the Coast Guard  
14 should there exist out of port entry.

15 Thank you.

16 COMMANDER ENGLEBERT:

17 Thank you very much.

18 MR. KEN WELLS:

19 Good morning. I'm Ken Wells, I'm  
20 Southern Region Vice President for the  
21 American Waterways Operators. AWO is the  
22 national trade association for the inland  
23 and coastal tugboat, towboat and barge  
24 industry.

25 And at the risk of appearing to

1 to keep up with changes in MARSEC levels.  
2 As a result, the Coast Guard should  
3 establish a formal system for sending out  
4 security information and a means by which  
5 each company can elect to receive  
6 information from selected ports or  
7 districts.

8 In reference to Question 4 and 5,  
9 AWO fully supports the use of a Coast  
10 Guard-approved and accepted industry  
11 standard as an alternative to compliance  
12 with the forthcoming security regulations.  
13 The AWO Model Vessel Security Plan was  
14 designed to work in just such a fashion. We  
15 think that it is a good model for how this  
16 can work.

17 AWO members who are operating  
18 vessels that must meet SOLAS requirements,  
19 would also prefer to be able to use a Coast  
20 Guard-accepted industry standard plan as an  
21 equivalent to the SOLAS amendments and the  
22 ISPS Code for all of their vessels.

23 In other words, when you have a  
24 domestic Jones Act vessel moving on the  
25 domestic market coastwise, it should be able

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1 to follow an alternate compliance plan  
2 rather than the full SOLAS plan.  
3 And in reference to Question 6,  
4 Declarations of Security, the DoS should be  
5 required only at MARSEC Level 3 for vessels  
6 moving cargo listed in Category 1 of the AWO  
7 Hazardous Cargo Classification. That's  
8 primarily liquefied flammable gases and  
9 liquefied hazardous gases. Towing vessels  
10 and barge operators should be able to  
11 execute a master DoS for routine or repeated  
12 operations. Separate DoS should only be  
13 required when there is an ongoing interface  
14 between two parties such as during a cargo  
15 transfer.

16 Important that we make the  
17 distinction here. On the Lower Mississippi,  
18 there may be hundreds of vessel interfaces a  
19 day up and down the river as people move in  
20 and out of fleets as they break up a tow in  
21 the river. Very important that we not be  
22 required to have a DoS for each of those  
23 interfaces because it would overload both  
24 the companies' and the Coast Guard's ability  
25 to accept that information.

1 Another problem that addresses  
2 particular MODU operators is, you know, we  
3 take cargo out of a particular facility in  
4 one captain of the port zone, receive crew  
5 members from other captain of the port zones  
6 primarily because the aviation facilities  
7 are available there. So we need to insure  
8 that there is consistency within the Gulf of  
9 Mexico with regards to what security level  
10 is for the offshore assets.

11 I thank you very much.

12 COMMANDER ENGLEBERT:

13 Thank you.

14 MR. ROSS JOHNSON:

15 Good morning. My name is Ross  
16 Johnson. I'm the Company Security Officer  
17 for Atwood Oceanics, an offshore drilling  
18 company in Houston, Texas.

19 I would like to speak with respect  
20 to 3 Alpha, formalizing professional  
21 standards is unnecessary because it would be  
22 overly exclusionary. It would reduce the  
23 number of available security consultants,  
24 drive up the prices and not necessarily  
25 improve the product.

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1 That would be our comments on  
2 those seven questions, and again, I would  
3 invite anyone to elaborate on those from the  
4 towing industry.

5 Thank you.

6 COMMANDER ENGLEBERT:

7 Thank you.

8 Let the record show that I have  
9 counted approximately 50 members that stood  
10 up. Next.

11 MR. JAMES GORMANSON:

12 Good morning. My name is Jim  
13 Gormanson. I am the Compliance Manager for  
14 Noble Drilling in Sugar Land, Texas.

15 My comment is on No. 1, you know,  
16 the communication process.

17 Now, the Coast Guard's use of the  
18 phrase "port security plan" in the proposal  
19 is unclear. The Maritime Security  
20 Transportation Act identifies three levels  
21 of plans. In addition, SOLAS Regulation  
22 11-2/10 and the ISPS Codes look at a port  
23 facility security plan. We need the Coast  
24 Guard to clarify what it is that we're  
25 supposed to be looking at.

1 The security consulting industry  
2 is largely unregulated by governments, and  
3 yet excellent work is done every day. Also,  
4 formal standards could serve to freeze  
5 qualifications for a group charged with  
6 fighting an evolving threat. The  
7 qualifications should be allowed to evolve  
8 with the threat.

9 With respect to 3 Bravo, our only  
10 comment is that if it is determined that a  
11 security plan might require the use of  
12 deadly force, then the guard company or  
13 organization should require licensing.

14 Thank you very much.

15 COMMANDER ENGLEBERT:

16 Please speak your name slowly and  
17 a little more clearly. Our court reporter  
18 is trying her best.

19 Next? Yes. Close to the mike,  
20 please.

21 MR. WILLIAM HEDRICK:

22 Good morning. My name is Bill  
23 Hedrick. I'm with Rowan Companies, it's a  
24 Houston, Texas-based, nonself-propelled MODU  
25 operator and owner. I'm here on behalf of

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1 the 24 vessels we own and operate, as well  
2 as being a participant in the International  
3 Association of Drilling Contractors Security  
4 Work Group.

5 I would like to first thank the  
6 Admiral for his comments as regards looking  
7 towards performance-based as opposed to  
8 prescriptive rule making. We welcome and  
9 endorse that philosophy.

10 I would like to address Nos. 4  
11 and 5 together.

12 Specifically, the IMO has  
13 recognized that operations of a MODU is more  
14 akin to that of a fixed or floating platform  
15 as opposed to that of operations of merchant  
16 ships. The IMO has specifically recommended  
17 that MODUs be given special treatment and we  
18 agree. The ISPS Code has been thoroughly  
19 reviewed by the majority of the owners of  
20 nonself-propelled Mobil offshore drilling  
21 units. We find the terms unacceptable.  
22 They are not cost effective nor will they  
23 appreciably enhance security.

24 We strongly endorse the acceptance  
25 of the API recommended Practice 70 Process.

1 catch everybody at the right time.

2 If you change MARSEC levels in the  
3 middle of the night, I'm not in my office,  
4 but if you have a general question on  
5 security, I'm the guy to go to. So somehow  
6 the Coast Guard needs to work with industry  
7 to figure out how to deal with those things  
8 within the companies, because there are so  
9 many differences.

10 Going to No. 4, alternatives,  
11 please, yes, we want to be able to use  
12 alternatives. We have already started  
13 conducting vulnerability assessments and  
14 implementing corrective actions based on  
15 those assessments because of our involvement  
16 with the American Chemistry Council. AWO  
17 has come up with a model plan. the last  
18 thing we want to have to do is redo all  
19 those assessments or go back in and try to  
20 do something different. So we absolutely  
21 want to do alternatives.

22 One of our concerns, as a big  
23 company with multiple sites, is having to  
24 have multiple plans and having ten different  
25 offices approving facility plans. What we'd

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1 For those of you who are not familiar, we  
2 have a number of API representatives,  
3 specifically Mr. Mark Witton and Mr. Vince  
4 Cattone, who are leading the industry's  
5 efforts to develop a complete security  
6 protocol for the offshore drilling and  
7 production industry.

8 That is the type of  
9 performance-based rule-making we endorse.

10 Thank you.

11 **COMMANDER ENGLEBERT:**

12 Thank you very much.

13 Next.

14 **MR. JAMES PRAZAK:**

15 Good morning. My name is James  
16 Prazak. I'm with Dow Chemical. I have  
17 about three or four comments to make.

18 On No. 1, the communication  
19 processes. One of the things we're seeing  
20 is that there's a major issue in the  
21 day-to-day communication of nonsecurity  
22 versus the communication that may come up in  
23 the middle of the night, and we see that as  
24 a difficulty with the Coast Guard trying to  
25 figure out a way to develop something to

1 like to be able to do is have a master plan  
2 that's approved, and then have specific  
3 site-specific appendices that cover the  
4 specifics of a particular site that might be  
5 different.

6 The difficulty is how do you get a  
7 master plan developed when you have ten  
8 different officers that are looking at the  
9 same plan. It would be nice if there was a  
10 way to identify a lead MSO based on where  
11 maybe your largest facility is located and  
12 have that as the MSO office that approves  
13 your master plan and then each local office  
14 approves the appendix for that specific  
15 site.

16 The last thing is on the  
17 Declaration of Security. We would like the  
18 use of a guideline versus a mandated DoS.

19 What we're trying to do is have a  
20 site-specific DoS, because there should be  
21 no differences from vessel to vessel for a  
22 facility, so what we would like to do is  
23 have a facility-specific DoS that we're  
24 using for all of our facilities instead of  
25 having the one that's actually in the

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1 recommended use.

2 That's my main comments.

3 Thank you.

4 MR. PETER HILL:

5 Good morning. I'm Peter Hill.

6 I work for Risk Reliability and Safety  
7 Engineering. My position is Manager of  
8 Offshore Regulatory Services. I provide  
9 consulting primarily for offshore operators  
10 of fixed and floating platforms and several  
11 marine operators.

12 I wanted to address the point of  
13 equivalency and the form of regulations as  
14 performance based versus prescriptive.

15 Right now equivalency requests  
16 through the Coast Guard take upward of six  
17 months. This process is generally not  
18 satisfactory to a lot of operators who are  
19 having their projects, their progress held  
20 up by the time it takes to do an equivalency  
21 evaluation. But we find, if we look at what  
22 equivalency does, it's generally saying that  
23 an alternative is equal to the safety that's  
24 provided by the prescriptive standard, so I  
25 would applaud you in pursuing a

1 of Administration, James Eldredge, and our  
2 Chief of Police, Russell Witmarse, this  
3 morning.

4 I have a brief comment, but I  
5 think important with respect to the final  
6 item, Security of Information. It goes to  
7 the nondisclosure language in the  
8 newly-passed Maritime Transportation  
9 Security Act of 2002.

10 The issue in my mind is whether  
11 that nondisclosure language is broad and  
12 wide enough to cover what should be covered.  
13 Just for an example, we are underway at our  
14 port with the security assessment  
15 vulnerability study and master plan that  
16 will need to be formulated under the new  
17 act.

18 We got a request under our State  
19 Open Records Act, and I point out that most  
20 of the states have statutes like this, for  
21 the proposal, a written proposal, to do  
22 that, a security assessment and master plan.

23 Luckily, as it turned out, that  
24 proposal was withdrawn at the last moment.  
25 The question is whether the nondisclosure

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1 performance-based regulation, because by  
2 doing that, you will vastly reduce the  
3 number of equivalency requests that are  
4 necessary, since at some point people are  
5 just submitting a plan that's going to meet  
6 a performance standard and the need for many  
7 equivalency requests will be diminished.

8 I also would agree with the point  
9 made by American Waterways Operators  
10 concerning coastwise domestic voyages. One  
11 of the things that this proposal would do,  
12 as worded right now, is it would classify  
13 OSVs in a category where they would have to  
14 meet the full SOLAS requirements, and these  
15 voyages, which typically cross captain of  
16 the port zones, but are domestic in nature,  
17 in support of oil exploration and  
18 production, should be required to meet a  
19 lesser standard.

20 Thank you very much.

21 MR. THOMAS SCHROEDER:

22 Good morning. My name is Thomas  
23 Schroeder. I'm Associate General Counsel  
24 for the Port of Houston Authority in  
25 Houston, Texas. I'm here with our Director

1 language, the ambit of it is broad enough to  
2 exempt that, because there was, in our  
3 minds, information in that proposal that  
4 ought to have been kept confidential.

5 So the first issue is whether the  
6 nondisclosure language in the Federal  
7 statute is wide enough. The second issue,  
8 as I implied, is that most, if not all the  
9 states, have open records acts. In Texas we  
10 call it the Public Information Act.

11 The issue has been raised by one  
12 of our outside law firms as to whether the  
13 Federal statute will or will not preempt,  
14 that is to say, supersede the local, the  
15 Texas act or other acts in other states.  
16 That issue is not expressed, is not dealt  
17 with in the Federal statutes, an open issue  
18 and I think one that ought not to remain  
19 open.

20 In any event, it would be my  
21 thought that perhaps the Coast Guard could  
22 interact with the states and emphasize the  
23 importance of similar language, similar  
24 exemptions being passed in the state open  
25 records acts. In ours there's none. In our



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1 statute right now virtually any security  
2 information is absolutely available to any  
3 member of the public.

4 Thank you.

5 MR. ROBERT RHEEM:

6 My name is Robert Rheem. I  
7 represent Shell Oil Company in Houston,  
8 Texas. I'll be speaking in regards to the  
9 shoreside activities.

10 We operate in nine captains of the  
11 port zones throughout the U.S. Our concern  
12 is with the delegation of authority to  
13 non-national security-oriented agencies. We  
14 feel that the security-related information  
15 should stay within the National Security  
16 Agencies group of agencies that were  
17 displayed earlier. We are not in favor of  
18 the delegation of security-related  
19 responsibilities to state agencies.

20 One of the issues there is  
21 consistency across the United States. We  
22 don't feel that the states are in a good  
23 position to implement security-related  
24 practices that will be in alignment with  
25 many of our operations that cross state

1 Thank you.

2 MR. REG WHITE:

3 Good morning. My name is Reg  
4 White. I'm the Vice President of Operations  
5 for Paradise Cruise Limited in Honolulu.  
6 We're members of the Passenger Vessel  
7 Association. I'm here this morning  
8 representing the Ocean Tourism Coalition of  
9 Hawaii. It's a very small industry that  
10 creates about a hundred million dollars into  
11 the state's revenues each year and provides  
12 jobs for about 6,000 people.

13 As it's written, this particular  
14 set of regulations jeopardizes that entire  
15 industry because it is composed of very,  
16 very small businesses for the most part who  
17 cannot possibly withstand the financial  
18 burden that's envisioned here. But as the  
19 Admiral said in his opening remarks, one  
20 size doesn't fit all, this is an industry  
21 with many, many facets.

22 I would suggest to you that in  
23 concert with the Coast Guard, the Passenger  
24 Vessel Association wrote a passenger vessel  
25 security guideline. This is a living

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1 lines.

2 The other issue with regards to  
3 accepting of industry standards, I concur  
4 with Mr. Prazak's comments. Shell is a  
5 member of the American Petroleum Institute  
6 and the American Chemistry Council, both of  
7 which have ongoing security-related programs  
8 focused on vulnerability assessments and  
9 guidelines. It's important that we accept  
10 those practices and procedures that are  
11 already in place, so that there's not costs  
12 and rework performed with related  
13 activities.

14 Lastly, the issue of  
15 security-sensitive information. We are  
16 concerned that information that is being  
17 classified as "secret" by other Federal  
18 organizations such as the FBI and the DOE is  
19 receiving a lesser level of security  
20 classification in this process. So we feel  
21 it's incumbent upon the Federal government  
22 to discuss this and insure that the  
23 information that is being garnered by  
24 multiple agencies is classified consistently  
25 and accordingly.

1 document that naturally will have to be  
2 massaged and changed as time goes along and  
3 as conditions and experience dictates, but  
4 this is an industry standard that is made to  
5 fit the type of industry that we represent.  
6 It's something that can be lived with with  
7 the industry and it recognizes the  
8 difference between domestic voyages,  
9 domestic service and international service.  
10 It recognizes the difference in risk levels  
11 posed by those different types of  
12 operations, and I urge you to look at it,  
13 take this as an example of how an industry  
14 can build a standard in concert with the  
15 Coast Guard, and carry it forward in a  
16 practical manner.

17 Thank you.

18 MR. TED THOMPSON:

19 Good morning. My name is Ted  
20 Thompson. I'm the Executive Vice President  
21 of the International Council of Cruise  
22 Lines. We represent 16 members that operate  
23 approximately a hundred large cruise ships  
24 calling at about 70 ports in the United  
25 States, carrying about six million

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1 passengers a year in overnight deepsea  
2 voyages.

3 I think it's been stated and it's  
4 fairly clear that one size doesn't fit all.  
5 And I think we're hearing that in the  
6 statements this morning.

7 I have a couple of concerns I  
8 would like to share with you with regards to  
9 RSOs. While I don't disagree with the  
10 concept, I think some administration  
11 guidelines are going to have to be given  
12 with regards to their operation.

13 No. 1 is alternative and  
14 equivalencies. Is the RSO going to approve  
15 those or is the Coast Guard going to approve  
16 those? And as we heard earlier,  
17 equivalencies are very important and cannot  
18 be delayed.

19 Secondly, if an RSO is approving  
20 the plans, but the Coast Guard is doing the  
21 actual inspections of the ships and the  
22 security and has the authority to hold up  
23 the ships, what type of appeal procedure is  
24 there when there are differences between  
25 what the RSO approves and what the Coast

1 that important.

2 And, finally, with regards to SSI,  
3 we fully concur with the intent to keep this  
4 information classified in some manner and  
5 restricted from public dissemination. We  
6 have a concern as to how that's worded,  
7 though. Currently with SSI, we're dealing  
8 with wording that says you cannot  
9 disseminate that information unless you have  
10 written permission from the Secretary of the  
11 Department, and I don't think anybody has  
12 that.

13 So I think there's some work that  
14 has to be done with having this be kept  
15 close enough to be useful and yet broad  
16 enough that we can get it to the people that  
17 need to use it.

18 Thank you.

19 COMMANDER ENGLEBERT:

20 Thank you.

21 MR. STEPHEN KENNEY:

22 Good morning. My name is Steve  
23 Kenny. I'm with Lanier & Associates,  
24 Consulting Engineers. I'm Vice President.  
25 And we represent a number of inland

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1 Guard feels is the proper interpretation?  
2 I think that's a very important issue that  
3 needs to be addressed.

4 And, third, if an RSO is approved,  
5 such as the American Bureau of Shipping, are  
6 we going to be required to use the RSO, or  
7 will the Coast Guard still serve as that  
8 approving entity? I think that's important,  
9 also.

10 In our experience with security  
11 plans, which we've been dealing with over  
12 the past five, five and a half years, since  
13 the Coast Guard first came out with the  
14 regulations for passenger vessels and  
15 passenger vessels terminals, we have found  
16 that this coordination is very important in  
17 getting those plans approved and  
18 implemented, and if there's a third party  
19 involved, it's going to be that much more  
20 difficult.

21 With regards to the Declarations  
22 of Security, obviously there's a difference  
23 in the needs. Our folks would like to see  
24 Declarations of Security at every single  
25 port interface that we have. We think it's

1 industries, ports, grain elevators,  
2 refineries, chemical plants. I endorse the  
3 concept of performance-related standards and  
4 want to suggest that those standards, as has  
5 been suggested already, be tailored to the  
6 specific segments of the industry that they  
7 apply. So a wide range of industry  
8 standards tailored to specific segments  
9 would be a very good approach to that.

10 MR. ANTHONY ALEJANDRO:

11 Good morning. My name is Tony  
12 Alejandro. I am Deputy Director of  
13 Operations for the Port of Corpus Christi  
14 Authority in Corpus Christi, Texas.

15 Specifically I'm addressing the  
16 points about security-sensitive information  
17 in Item 7. This is a follow-on  
18 consideration to what the Port of Houston  
19 has already elaborated upon, which is the  
20 release under certain open records acts  
21 within states of security-sensitive  
22 information.

23 Our concern, besides what was  
24 stated by the Port of Houston, also has to  
25 do with open bidding requirements under

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1 certain states. We at the Port of Corpus  
2 Christi, for example, fall under state law  
3 as far as open bidding.

4 We're in the process of developing  
5 a security center, a system of cameras that  
6 are fiberoptic-linked, and all of that  
7 design that is drawn up in detailed drawings  
8 is going to have to be made available to the  
9 public to anyone who wishes to bid on that.

10 So protecting security information  
11 contained within security plans is only half  
12 of the problem. The other half has to do  
13 with also anything to do with the open  
14 bidding requirements that certain states  
15 have that will again release security  
16 information that any port authority may  
17 have.

18 Thank you.

19 MR. CHARLES HAVNEN:

20 My name is Charlie Havnen. I'm a  
21 marine consultant.

22 One thing that's become apparent  
23 over the last few months is the SSI may be a  
24 critical issue, but it's difficult to  
25 maintain it and pass information along to

1 clarify before we move to the next subject.

2 Admiral.

3 ADMIRAL HERETH:

4 Sure. Let me just run through a  
5 couple of things and ask TSA and MARAD if  
6 they would like to chime in, plus any of the  
7 staff, if I'm off track or you want to add,  
8 please jump in here.

9 Some great comments. I've taken a  
10 lot of notes. We acknowledge the comments  
11 about performance-based standards. A couple  
12 of things that I can respond to somewhat  
13 already.

14 The planning standards that will  
15 exist are somewhat OPA like in their nature.  
16 There will be a national plan, there will be  
17 local port plans, which are kind of like  
18 area contingency plans now. And then within  
19 and referenced in that plan will be vessel  
20 plans and/or terminal plans, facility plans.  
21 So that's the planning scheme.

22 Within that scheme, will be  
23 designations of company security officers,  
24 vessel security officers, and then on the  
25 shoreside, facility security officers. And

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1 appropriate agencies at the appropriate  
2 time.

3 As an example, in the Mississippi  
4 River, if you have a vessel that comes in  
5 that has hot or hot people on it, the vessel  
6 is bound for Baton Rouge, it's going to pass  
7 through Plaquemine port areas, St. Bernard  
8 port areas, New Orleans port areas, as well  
9 as south Louisiana port. So all of those  
10 port areas should have a responsibility or  
11 may have a responsibility to react to that  
12 vessel and the things that are on it.

13 Under this standard SSI criteria,  
14 that information may be prohibited from  
15 being disseminated to appropriate agencies,  
16 so there needs to be a practical application  
17 and a practical way to apply these things so  
18 that we can all move forward to a more  
19 secure environment.

20 Thank you.

21 COMMANDER ENGLEBERT:

22 Okay. Thank you for the comments  
23 on General Security Provisions. I'm going  
24 to ask the people on either side of me if  
25 they have any discussion points they want to

1 those, again, thinking of the comments about  
2 communication and information flow, we're  
3 thinking that those points of reference  
4 would be a good point from which to start  
5 the discussion and aim our target of flow  
6 information. They're required under the  
7 international scheme, they will be required  
8 under Marine Transportation Security Act,  
9 and so, therefore, we think that's a good  
10 target of aiming our information flow at.

11 Let me just go down and look at  
12 some of the notes.

13 The alternative process is going  
14 to be an interesting one. We don't have  
15 that completely lined up yet, but, again,  
16 from a national consistency approach, we're  
17 going to have to figure out a way to do  
18 alternatives or equivalencies quick, but in  
19 a way that we don't have a patchwork quilt  
20 of alternatives and inconsistencies spring  
21 up around the country. So we're wrestling  
22 with that, but we recognize that's an issue.

23 We also, Roger, for the time line,  
24 there should be an expectation on your part  
25 that you submit or request an alternative or

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1 equivalency, that you get an answer fairly  
2 quickly and in a reasonable time frame to  
3 conduct business.

4 Let me ask TSA and MARAD if they  
5 have any comments to any of the questions or  
6 comments.

7 Let me just go one step further in  
8 the information and then we will go to the  
9 next section.

10 A couple of people have raised  
11 this idea of SSI, security-sensitive  
12 information.

13 TSA has some regulations that are  
14 used in the aviation sector. We have been  
15 talking to TSA, and I don't know, Steve, if  
16 you want to comment on that, about the  
17 application of that to the marine sector, as  
18 I think that might afford us an opportunity  
19 of protecting information in an appropriate  
20 fashion.

21 Certainly, I took some notes down,  
22 we'll certainly have our attorneys look at  
23 the issue of the nexus or the relationship  
24 between the Federal protections afforded  
25 under the Marine Transportation Security Act

1 Right now it mostly applies to the aviation  
2 sector, and we are in the process of  
3 revising it to apply it more broadly to the  
4 entire transportation system. And the last  
5 draft I saw, I can tell, you did include  
6 specifically references to security plans in  
7 the maritime sector. We did that for  
8 obvious reasons. We now have a statute that  
9 has security plans that need to be  
10 protected.

11 In terms of state open records  
12 acts, we have, in fact, confronted this  
13 exact same issue with aviation security  
14 programs, and what we do is we work with the  
15 local authorities, and we have done this in  
16 Texas, actually, in Austin, where we had  
17 reporters ask for the airport security  
18 program in Austin, Texas. And we work with  
19 the local officials to show the State Open  
20 Records officials that it really does need  
21 to be protected, and we consider our act,  
22 our Federal act, to preempt the state law in  
23 that regard, and the new rule that we're  
24 working on will, in fact, clarify that.

25 In the meantime, if you are having

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1 to this kind of security information, be it  
2 assessments or be it plans or other  
3 information related to security on vessels  
4 and facilities within ports. How does that  
5 relate to the state open records provisions  
6 that exist in most states. I'm not sure of  
7 that and I don't know whether anybody can  
8 answer that question, but that certainly  
9 needs to be looked at.

10 We also recognize the terms of the  
11 information flow. There has to be a way in  
12 which to get threat advisory information  
13 directly to the people that ratchet up  
14 security as needed along the waterfront, and  
15 so we're also working on that dimension,  
16 too.

17 So with that, I'll just see if  
18 MARAD or TSA had any comments to add and  
19 we'll go on to the next section.

20 MS. MARTY THOMPSON:

21 My name is Marty Thompson. I'm  
22 with the TSA Council's office, and I just  
23 want to make a couple of comments on SSI.

24 We are in the process of revising  
25 that rule to make it apply more broadly.

1 difficulty with this process, we ask that  
2 you run a question up through, I guess at  
3 this point I would run it up through Coast  
4 Guard. I don't know the process for that,  
5 but we will help you from the TSA  
6 headquarters to work with your state  
7 officials to protect what needs to be  
8 protected.

9 ADMIRAL HERETH:

10 Sure. You can submit it to the  
11 Coast Guard, but everybody is already on  
12 record with several comments along that  
13 line. We'll take that for action.

14 Let me just point out Section  
15 70103 in the Marine Transportation Security  
16 Act does have a fairly strong statement  
17 about nondisclosure of information.

18 Anything related to assessments,  
19 vulnerability assessments, port security  
20 plans, vessels plans, facility plans and  
21 other associated programs, other information  
22 related to all that stuff, security plans,  
23 procedures or programs, is covered by  
24 nondisclosure of information paragraphs. So  
25 I think we can resolve that but we probably

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1 need to be clear certainly if there's a lot  
2 of question in that area.

3 Thank you.

4 COMMANDER ENGLEBERT:

5 Okay. We're going to move to the  
6 next section.

7 The next section for reference is  
8 Appendix A. It covers ports, and it is  
9 Questions 8 through 11. I'll quickly review  
10 those questions for you.

11 Question 8 talked about port  
12 security plans and committees. The Coast  
13 Guard did issue a navigation vessel  
14 inspection circular in November 2002, that  
15 talked about port security plans and  
16 committees.

17 The notice tells you that we  
18 intend to issue regulations establishing the  
19 port security committees. It also let's you  
20 know that we intend to designate the captain  
21 of the port as the port facility security  
22 officer, which is a title that is needed to  
23 meet the requirements of the ISPS Code, the  
24 international code. And it talks about  
25 issuing further guidance for port security

1 port security assessments and that the port  
2 security assessment would be required to be  
3 updated.

4 The questions we ask are: Will  
5 the port security committees be able to  
6 provide enough expertise to help develop the  
7 port security assessments, and we also asked  
8 if you knew if your port had currently done  
9 an assessment, or was in the process of an  
10 assessment that you believe could meet the  
11 port security assessment requirements.

12 Question 10 talked about the  
13 control of vessels, facilities and  
14 operations. We anticipate that the port  
15 security plan will address the areas that  
16 may benefit from waterway restrictions under  
17 certain security levels. To give you an  
18 example, at MARSEC Level 3 there might be a  
19 need for a security zone around a certain  
20 area or anchorage; however, in MARSEC Level  
21 1 that might not be necessary, based on your  
22 port security assessment.

23 We talked in the notice about  
24 whether or not requirements or regulations  
25 write in the Federal Register that would set

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1 committee membership.

2 We asked several questions in the  
3 notice such as who should be involved in the  
4 committees, and how would you recommend that  
5 we insure involvement of the right maritime  
6 community personnel.

7 Question 9 talked about port  
8 security assessments. As you all know, the  
9 international requirements talk about a port  
10 facility security assessment, and the U.S.  
11 has indicated that to meet the international  
12 requirements, the port security plan would  
13 meet the port facility security plans in the  
14 international regime.

15 Just so you all are very clear,  
16 the Maritime Transportation Security Act  
17 renamed the Port Security Plan the Maritime  
18 Transportation Area Plan. So we will have  
19 all kinds of different acronyms at the end  
20 of the day.

21 Anyway, there is an assessment  
22 that's required and we intend to have that  
23 assessment done for each captain of the port  
24 zone as a minimum. We anticipate that the  
25 port security committees will assist in the

1 out the securities zone procedures and  
2 patrol requirements for a certain area in a  
3 port that was rather predesignated. For  
4 instance, in 33 CFR 165, where you find  
5 security zones now in safety zones, there  
6 could potentially be additional information  
7 that says "At Maritime Security Level 2, an  
8 extra security zone in this area is set."

9 And we asked you if predesignated  
10 restrictions would assist you, and if you  
11 had any suggestions for additional types of  
12 controls that we could place.

13 Question 11 talked about port  
14 security training and exercises.

15 Because of the SOLAS requirements  
16 and the Coast Guard's intention to make the  
17 port security plan meet the port facility  
18 requirements of SOLAS, there will be a need  
19 for annual exercises of the port plan;  
20 however, at this time the Coast Guard is now  
21 proposing formal training requirements for  
22 port personnel, and we're proposing that on  
23 a quarterly basis we would participate or  
24 audit facility drills as a means to further  
25 insure security throughout the port. The

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1 questions that we ask are basically whether  
2 you would participate in a port exercise, if  
3 there's a particular type of exercise that  
4 you as a maritime community find easier to  
5 participate in, and do you have a port  
6 personnel security training program that you  
7 want to recommend to us.

8 You will see the pages of the  
9 notice that I'm talking about, these are  
10 Questions 8 through 11.

11 We will now receive public  
12 comments on Questions 8 through 11, port  
13 security plans, committees' assessments,  
14 vessel controls, facilities and operation  
15 controls, port security and training and  
16 exercises and any other port specific  
17 security topics that you would like to bring  
18 to our attention.

19 Please, having learned from the  
20 first group, if I put my hand to my ear, it  
21 means that I cannot hear you. And if I  
22 cannot hear you, our court reporter can't  
23 hear you, so if I indicate that, please  
24 speak up into the microphone.

25 Thank you.

1 If the facilities are to be  
2 protected through the use of security zones,  
3 the Coast Guard must clearly articulate that  
4 it has that authority and the means by which  
5 those security zones can be established.

6 Thank you.

7 MS. CAROL LAMBOS:

8 My name is Carol Lambos. I'm an  
9 attorney with Lambos & Young. I represent  
10 the United States Maritime Alliance.

11 Basically, my comments today are  
12 not the formal comments of the organization  
13 which we intend to submit to the docket.  
14 These are questions that will help our  
15 representatives formulate their comments.  
16 And the questions primarily deal with the  
17 comment that you just made with regard --  
18 and several other commenters have brought it  
19 up -- with the confusion that has been  
20 created with the different designation of  
21 what a port facility is under the ISPS Code  
22 and the different designations under the  
23 MTSA.

24 If you refer to the Coast Guard  
25 NAVIC 1102, that refers to the

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1 Sir.

2 MR. ALAN SPACKMAN:

3 Alan Spackman, International  
4 Association of Drilling Contractors.

5 We believe that it's necessary for  
6 the Coast Guard to further articulate  
7 jurisdictional issues with regard to its  
8 application of the Maritime Transportation  
9 Safety Act, specifically with respect to  
10 those facilities that lie beyond the limits  
11 of the territorial sea.

12 We have to look under existing  
13 U.S. law to the Coast Guard and other  
14 Federal agencies for the application of both  
15 Federal and Civil state law on those  
16 facilities. It's been our experience that  
17 the Federal agencies that have that  
18 authority now are reluctant to impose that  
19 authority on those OCS facilities,  
20 particularly with respect to issues such as  
21 trespass.

22 We also need to clarify the Coast  
23 Guard's authority to implement vessel and  
24 security zones beyond the limits of the  
25 territorial sea.

1 responsibilities of waterfront facilities,  
2 what we would consider waterfront facilities  
3 in this country. But the responsibilities  
4 assigned under that NAVIC are just about  
5 verbatim with the responsibilities for a  
6 port facility security officer under the  
7 ISPS Code, which would be designated as the  
8 captain of the port.

9 So this very long, detailed list  
10 of responsibilities, some responsibilities  
11 that those in the private sector might even  
12 describe as national security  
13 responsibilities or law enforcement  
14 responsibilities would be under these NAVICs  
15 attributable to these private sector  
16 facility security officers.

17 So we need a significant  
18 clarification about what the private sector  
19 is going to be responsible for under the  
20 code and its domestic application.

21 I would also ask you to consider  
22 that perhaps the code, while I commend it in  
23 its international scope, it does paint with  
24 a broad brush, and there does need to be,  
25 and I believe that the equivalencies and

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1 alternatives and the performance-based  
2 requirements will consider the different  
3 needs of the different sectors.

4 Lastly, I would also like to say  
5 that with regard to the Code and the NAVIC  
6 concerning the government responsibilities  
7 that it seems to ascribe, it seems to impact  
8 the jurisdiction of the INS with regard to  
9 how a private facility would have to process  
10 seafarers and enhance responsibilities with  
11 that.

12 There are responsibilities for  
13 inspecting cargo, and that I believe would  
14 impact customs jurisdiction, and, most  
15 profoundly, the water surveillance issues  
16 which would be a Coast Guard function.

17 Lastly, my last comment addresses  
18 the security assessments in that under the  
19 code there is a requirement that they be  
20 based on an assessment of risk and all types  
21 of risks, which the private sector would not  
22 necessarily be privy to. So how would the  
23 private sector fulfill this responsibility  
24 of creating these assessments if they're  
25 unaware of the risk?

1 In the discussing of any type of security  
2 plan, the welfare of the seafarers can  
3 become lost in the debate about both income  
4 and also just tight security. So we have a  
5 great deal of concern about how the plan  
6 manifests itself, especially in regards to  
7 seafarer's welfare issues and the ability of  
8 both port chaplains to access the ship and  
9 visit the seafarers, as well as the  
10 seafarers being able to leave the vessel.

11 Now, some of the discussion that  
12 appeared in this Federal Registry notice has  
13 been surpassed by the recent NAVIC 1102, and  
14 having read that, I take heart at the good  
15 work of placing the ISPS Codes references to  
16 seafarers shore leave into the document  
17 itself and making it mandatory. And I have  
18 submitted a larger or longer comment, but  
19 the thing that I wish to bring attention to  
20 is the potential contradiction between the  
21 statement in regards to seafarers being able  
22 to leave the vessel as well as maritime  
23 labor and seafarer welfare people being able  
24 to visit the vessel and what appears in Note  
25 1, which says that the facility should try

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1 So I think there needs to be some  
2 type of give and go on actually how all this  
3 can be accomplished with the private sector.  
4 I think it's obviously much easier to do  
5 with state facilities.

6 Thank you.

7 FATHER OUBRE:

8 I'm Father Sinclair Oubre, and  
9 that's spelled O-U-B-R-E. I am a Catholic  
10 priest for the diocese of Beaumont, and the  
11 president of the Apostleship of the Sea of  
12 the United States of America, which is the  
13 membership organization of Catholic maritime  
14 ministers and volunteers throughout the  
15 United States.

16 And I also, looking around here,  
17 see that there are representatives from the  
18 maritime ministry community from Mobile, New  
19 Orleans, Beaumont and Port Arthur and maybe  
20 even more. And one of our great concerns  
21 has always been, in the process of the  
22 security discussion, is the welfare of the  
23 seafarers and the ability of the seafarers  
24 to get their rightly and just shore leave  
25 when they're able to come into the vessel.

1 to establish some means for seafarers to  
2 leave the vessel and get out of the facility  
3 itself. It draws a great deal of concern to  
4 us any time we read the word "should"  
5 because that can be read by the company or  
6 the facility as "may."

7 In my document I submit that this  
8 issue should be actually a must unless it  
9 can somehow be demonstrated to the captain  
10 of the port that this is such a severe  
11 problem and hardship, after consulting with  
12 the Maritime Labor and the Maritime Seafarer  
13 Welfare Committees, to somehow close that  
14 facility.

15 I also want to bring the attention  
16 that throughout the Gulf of Mexico and the  
17 United States you have literally dozens of  
18 maritime centers ready to assist in the port  
19 security of moving the seafarers securely  
20 and safely from the ship out and back again.  
21 These are organizations that have been  
22 around here for decades and are willing to  
23 help.

24 And I also want to bring the Coast  
25 Guard's attention to the ILO 163 in regards

21 (Pages 81 to 84)

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1 to the Seafarer, Welfare and also Port  
2 Seafarer Welfare Committees, this can be a  
3 vehicle, a very important vehicle in order  
4 to move it forward.

5 And I thank you for your time.

6 MR. STEPHEN JUDD:

7 My name is Steven Judd, Port Agent  
8 for the Seafarers International Union.

9 The Father here stole my thunder,  
10 but I would like to speak on the same  
11 subject.

12 Our concerns are that the merchant  
13 marine seamen being restricted unnecessarily  
14 in the port facilities. And while we  
15 support the Coast Guard and all the  
16 government agencies and their security  
17 concerns, our members are trusted with  
18 strategic goods on board the vessels such as  
19 ammunition and military support equipment  
20 and we feel that -- we basically hope they  
21 won't be held captive on board the vessels  
22 while they are in U.S. ports.

23 That's my concern. Thank you.

24 MR. M.I. MOLINE:

1 country.

2 Thank you.

3 MR. JAMES PRAZAK:

4 My name is James Prazak. I'm from  
5 Dow Chemical.

6 Question 9, I've got a comment to  
7 make there. Earlier in my comment I already  
8 addressed the issue about having a master  
9 plan for multiple facilities that go across  
10 different captain of the port zones, and all  
11 those plans really need, or our master plan  
12 we still have to align with the port plan  
13 from that level.

14 I guess the major issue I have is  
15 that we need to make sure that the port  
16 plans across the nation, as much as  
17 possible, align. One, it will make it a lot  
18 easier for us to handle our development of  
19 our own plans, but a lot of us are going to  
20 support our facilities. If we have an issue  
21 on the West Coast, I'm probably going to get  
22 pulled in to support them. And so if their  
23 plan and their area of plan, area of port  
24 plan matches other port plans, it's going to  
25 simplify my life of being able to implement

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1 My name is M.I. Moline. I'm the  
2 elected official with the Marine Engineers  
3 Beneficial Association here in New Orleans,  
4 the oldest maritime union in America.

5 I have the privilege to show my  
6 graciousness by having the opportunity to  
7 address this panel and let you know that  
8 traditionally the merchant marine has  
9 stepped up to the plate and every instance  
10 has been to defend the United States.

11 Again, I would like to step into  
12 the ground where the divine intervention was  
13 here before, earlier. He noted that we are  
14 subject to being prisoners aboard our own  
15 vessels here in our own country, and,  
16 hopefully, the panel will take into  
17 consideration that traditionally the life  
18 that a merchant mariner endures is going to  
19 cause Olarian's Law to come in and be  
20 utilized again.

21 We need time off. We don't want  
22 to be resumed as captives here in our own  
23 country and, hopefully, the panel will look  
24 at this closely and move forward and be able  
25 to help us to be free again in our own

1 into the process of supporting them.

2 Worklife that Commander Paskewich  
3 is doing with the inland rivers, things like  
4 that, are really excellent ways. I don't  
5 know how you do that for the overall area  
6 plans across the whole U.S., but something  
7 like that is great.

8 On No. 10 about port security,  
9 control of vessels, facilities and  
10 operations. I guess from my standpoint,  
11 after we have the U.S.S. COLE and then the  
12 subsequent bombing of the LINDBERG, it's  
13 obvious that terrorists are going to go  
14 attack us from other vessels, so one of the  
15 concerns we have is how do we secure our  
16 ports from vessels that are coming in and  
17 out of the ports.

18 The biggest issue, of course, is  
19 the vessels we can't control very well, the  
20 smaller vessels, the recreational fishermen.  
21 I have my own boat, I like to go fishing,  
22 but, I also have this dual role of  
23 understanding the implications of that, and  
24 so trying to balance that out. But we need  
25 to have rules that are consistent, that are



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1 in place all the time.

2 If we stay complacent and let  
3 these vessels come alongside our ships and  
4 our facilities, you know, it's very  
5 difficult for us to really protect them long  
6 term.

7 No. 11, regarding port security  
8 and training. Beginning to get a little bit  
9 concerned about the frequency of the drills  
10 and training and all of that that goes into  
11 it. If you look at all the training we  
12 already have with OPA 90 drills and with  
13 hazardous substances, when that comes out.  
14 We also have our state and our OSAH and all  
15 the other requirements. Before we go out  
16 and actually pick a frequency, I think it  
17 would be very beneficial to actually try to  
18 develop a matrix of all the potential drills  
19 and training that are out there and how they  
20 interrelate, and try to work through that.

21 I think it's much better to have  
22 one good drill than have three or four  
23 mediocre drills that just meet the  
24 requirements.

25 And one final comment.

1 restrict waterway movements as may be  
2 necessary. However, the barge stowing  
3 industry urges individual ports and COTP  
4 zones not to develop their own security  
5 standards and procedures for vessels  
6 operating in their waters. That's a  
7 balancing act. But, again, we need  
8 conformity across zone lines.

9 The earlier example I gave of a  
10 towing vessel moving through nine different  
11 zones in one cargo move, we need to make  
12 sure that we do not have wildly different  
13 standards, because those create confusion.  
14 And that confusion, in turn, contributes to  
15 a security threat in the zones rather than  
16 mitigating it. And so it really is up to  
17 the Coast Guard to make sure that there is  
18 conformity while we still can protect  
19 individual vessels in individual zones  
20 through the port security committees.

21 Thank you.

22 MR. JOE PORTO:

23 My name is Joe Porto. I'm an  
24 Assistant United States Attorney with part  
25 of the anti-terrorism task force for the

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1 Getting a little bit confused  
2 about the very last bullet point on, I  
3 guess, No. 11. We started talking about  
4 port and we started talking about training  
5 and guidance for safety and superior  
6 personnel for the port, and having a port  
7 personnel security training program.

8 Since the port is really an area  
9 plan, unless you get to like the port of  
10 Houston, your port Since the port is really  
11 a conglomeration of a bunch of different  
12 facilities that have their own individual  
13 security people, so it's getting to be a  
14 little confusing there, and it may just need  
15 some clarification.

16 Thank you.

17 MR. KEN WELLS:

18 Again, I'm Ken Wells. I'm the  
19 Southern Regional Vice President for the  
20 American Waterways Operators.

21 Simply in reference to Question  
22 10, AWO encourages the Coast Guard to make  
23 use of port security committees to consult  
24 with the barge and towing industry and other  
25 industry stakeholders on any decisions to

1 Southern District of Texas, from  
2 Houston/Galveston all the way down to  
3 Brownsville.

4 We are endorsing the port security  
5 plans and committees as described in your  
6 first question through the NAVIC and the  
7 PSAs as discussed and the ISPS Codes, Part  
8 A, Section 15, and Part B, Section 15.1  
9 through 15.16 as well as the MTSAs, Title 46  
10 United States Code, Section 70102.

11 Hopefully, that will be  
12 coordinated with vessel security  
13 requirements and facility security  
14 requirements and plans, that the United  
15 States Coast Guard should provide minimum  
16 standardized procedures in the vessel  
17 security plans for tracking and tracing  
18 vessel containers and a format to be given  
19 to the industry that is standardized so they  
20 can give details and contents, inventory,  
21 origin, destination, dates, and whether it  
22 has been opened and when and where as part  
23 of and responsive to the MARSEC with a  
24 progressive security measure attached to it.  
25 That would be similar to the industry

23 (Pages 89 to 92)

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1 standard as adopting the savvy technology  
2 that we have seen overseas, which is an  
3 electronic tracking system.

4 Also, we would like to see that  
5 the Coast Guard implement and coordinate  
6 communication notification protocols between  
7 emergency responders and private enterprise  
8 on a standardized basis, and we endorse  
9 heartily bi-annual testing procedures and  
10 drills for radiation, biological, chemical  
11 and all environments in the vessels in  
12 ports.

13 Thank you.

14 MR. CHARLES COREY:

15 My name is Charles Corey. I'm the  
16 Executive Director of the Center for  
17 International Seamen and Truckers at the  
18 Mississippi State Port Authority. I'm also  
19 a member of the North American Maritime  
20 Ministry Association, and I'd like to agree  
21 with Father Sinclair Oubre, of the request  
22 he has made in representing the Apostleship  
23 of the Sea.

24 We would like to ask that this  
25 committee and this panel consider as you're

1 being represented on all of the port  
2 committees that meet. We feel that mariners  
3 who operate these small vessels deserve to  
4 be heard. Their positions need to be  
5 considered. We also realize that many do  
6 not belong to any particular association,  
7 either union or non-union, that they should  
8 be welcome on these committees and they  
9 should be urged to attend so that they can  
10 give their views on what they believe needs  
11 to be done.

12 These are the people that work in  
13 these ports every single day of the year.  
14 They know what really goes on out there, and  
15 I think that they need to be heard and they  
16 need to be encouraged to attend.

17 I would also like to support the  
18 statements of Father Sinclair Oubre, as far  
19 as seamen getting shore leave. This is not  
20 only foreign seamen, but also American  
21 seamen as well, who in recent times,  
22 certainly for the past two or three years,  
23 have had great difficulty in even getting  
24 off their boats. Being kept prisoners in  
25 their own ports is something that our

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1 determining, along with the port captains,  
2 that seafarer facilities such as we have at  
3 the Mississippi State Port Authority and  
4 other ports, there's over 157 seamen centers  
5 in the United States, Canada and a few in  
6 the Caribbean, we would like to ask that  
7 look at these facilities as a home away from  
8 home where seafarers can come and be  
9 befriended in the name of Jesus Christ,  
10 where they can be cared for, their emotional  
11 and spiritual needs can be met and they can  
12 better do their jobs.

13 So I would like to ask that with  
14 the port captains, as you make your plans  
15 and assessments, that you include the  
16 seafarer centers as a place where care can  
17 continue to be given.

18 MR. RICHARD BLOCK:

19 Good morning. I'm Richard Block,  
20 Gulf Coast Mariners Association.

21 Our association represents many  
22 lower level mariners. The term is used to  
23 refer to people who serve on any vessel  
24 under 1600 gross tons.

25 We are particularly interested in

1 mariners are really getting pretty sick and  
2 tired of, and we feel that something needs  
3 to be done. Some consideration needs to be  
4 given to allow them to get off the boat to  
5 make telephone calls, to contact their  
6 families and things like that.

7 Thank you very much.

8 MR. CHARLES KING:

9 Good morning. Thank you for the  
10 opportunity to address the very sensitive  
11 issue among the maritime industry.

12 Admiral, let me assure you that  
13 this is a big deal for us, too.

14 COMMANDER ENGLEBERT:

15 Please introduce yourself, sir.

16 MR. CHARLES KING:

17 I'm sorry?

18 COMMANDER ENGLEBERT:

19 Introduce yourself, sir.

20 MR. CHARLES KING:

21 I will. I'm Charles King. I  
22 represent Buffalo Marine Service of Houston,  
23 Texas, and we are active members of the  
24 American Waterway Association, the Texas  
25 Waterway Association and the Gulf

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1 Intracoastal Canal Association.  
2 We're a bunker company primarily  
3 in the ports of Houston, Galveston, Texas  
4 City, Freeport and Lake Charles, Beaumont  
5 and Port Arthur.

6 Security affects us a little bit  
7 differently than most barge and towboat  
8 companies primarily because we are in  
9 contact with ships from all different parts  
10 of the world on a day-to-day basis. We also  
11 load from different facilities throughout  
12 those ports that I've just described, and as  
13 a result are affected by the facility plans  
14 that most of those security officers have  
15 already developed based on the fact that the  
16 Coast Guard has told them they have to  
17 increase the level of security and thus have  
18 impacted our availability to the boats as  
19 they visit those facilities.

20 Much as the seamen representatives  
21 have described before, we're limited to  
22 being able to get on and off of our vessels  
23 for service work, for changing of crews,  
24 primarily because we can't get through the  
25 facility. They just don't let anyone in.

1 Let me say in closing that we  
2 wholeheartedly endorse the AWO Model  
3 Security Plan that has been published and  
4 that the Coast Guard has been a part of  
5 reviewing already.

6 Thank you again.

7 MR. GEORGE DUFFY:

8 My name is George Duffy. I'm with  
9 Navios Ship Agencies, Inc.

10 I would like to speak to the  
11 points on port security plans, committees  
12 and the assessment plans that are going in  
13 place.

14 I think there has to be uniformity  
15 and consistency in these plans. We work in  
16 multiple ports. We are required to have  
17 various ID cards for each port or state  
18 area. This is throughout the nation. So  
19 individuals who work multiple ports have  
20 various types of identification, and that  
21 needs to be put down into one type of  
22 identification that would be good at any  
23 U.S. port.

24 Thank you.

25 MR. BILL O'NEIL:

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1 As a result, they have a high level of  
2 security and we have poor access to our  
3 boats, therefore, we have to go to some  
4 facility or some dock that will allow us  
5 access through them to get our service and  
6 maintenance contractors onto the boat and  
7 our crews to the boat as they need to be  
8 changed, or for personnel reasons, get them  
9 off of the boat.

10 I would also like to address a  
11 comment under the General Security  
12 Provisions in regard to security-sensitive  
13 information.

14 We have to release to our boats  
15 and educate them on security measures from  
16 our security plans, and, yet, that  
17 information is not supposed to be released  
18 to the public. It's difficult to control  
19 the information that the crew has and that  
20 they might talk about amongst their families  
21 and amongst the public that they come in  
22 contact with, and I think it is imperative  
23 that we have a good definition of who  
24 receives the information internally as well  
25 as externally.

1 Good morning. My name is Bill  
2 O'Neil. I am president of the O'Neil Group,  
3 and I represent a number of facility owners  
4 and operators on the lower Miss and in  
5 Texas.

6 At the outset I would like to say  
7 to the Coast Guard, I don't envy your task,  
8 and I think that what has gone on so far has  
9 been admirable and I hope that everybody in  
10 this room will chip in and help you resolve  
11 what is going to be something overwhelming.

12 I would like to make two  
13 observations on the Port Security  
14 Provisions.

15 In reading the legislation and the  
16 NAVICs, I urge the Coast Guard to pay  
17 specific attention to ship managers. The  
18 legislation addresses owners, operators and  
19 bare boat charterers. It is the ship  
20 managers who acquire the crew that works on  
21 the vessel, and whether that crew comes from  
22 Country A or Country B, it is the manager  
23 that works with agents in different  
24 countries to locate crew members, and I  
25 didn't see in the legislation a focus on

25 (Pages 97 to 100)

<p style="text-align: right;">Page 101</p> <p>1 that.</p> <p>2 Second, and concluding, the</p> <p>3 legislation seems to me to be somewhat</p> <p>4 ambiguous in the jurisdictional roles of the</p> <p>5 Port Commissions and the port itself. And I</p> <p>6 think everybody in this room knows that</p> <p>7 grants have already been given to some of</p> <p>8 the port districts here in New Orleans to</p> <p>9 spend monies to improve security even at</p> <p>10 this time. And, eventually, as the port</p> <p>11 districts get involved, I've heard some are</p> <p>12 going to purchase police boats and do other</p> <p>13 activities towards safety. Those expenses</p> <p>14 are eventually going to be passed back on to</p> <p>15 the users of the waterways. And so I hope</p> <p>16 that the Coast Guard will coordinate that</p> <p>17 activity with the port districts so there</p> <p>18 isn't a lot of overlap and a lot of</p> <p>19 duplicate expense.</p> <p>20 Thank you.</p> <p>21 <b>COMMANDER ENGLEBERT:</b></p> <p>22 Seeing no further commenters, I'll</p> <p>23 turn the panel discussion over to talk about</p> <p>24 port security provisions in general and what</p> <p>25 you have talked about today.</p>	<p style="text-align: right;">Page 103</p> <p>1 think about this domestically is, the port</p> <p>2 plan is going to cover an entire port area,</p> <p>3 presumably the entire captain of the port</p> <p>4 zone. And that may have several appendices</p> <p>5 that deal with, for example, in New Orleans</p> <p>6 you might have a lower area that deals with</p> <p>7 some of the offshore work, an area that</p> <p>8 centers on New Orleans, and maybe one that</p> <p>9 centers on some of the upper river kinds of</p> <p>10 activities that have been in this zone.</p> <p>11 But the gist is that that port</p> <p>12 plan would scan the horizon and look for</p> <p>13 potential problems related to threats out</p> <p>14 there and how they're being dealt with.</p> <p>15 Then they would engage a Port Security</p> <p>16 Committee, which we would envision would be</p> <p>17 inclusive more than exclusive. So there</p> <p>18 were a couple of questions about membership</p> <p>19 on the Port Security Committee. We would</p> <p>20 see the Port Security Committee being</p> <p>21 diversified enough that it covers all bases,</p> <p>22 so that everybody has a voice at the table,</p> <p>23 if you will.</p> <p>24 A Port Security Committee would</p> <p>25 scan the horizon and look for problems in</p>
<p style="text-align: right;">Page 102</p> <p>1 Admiral.</p> <p>2 <b>ADMIRAL HERETH:</b></p> <p>3 Just a couple of things to give a</p> <p>4 little feedback.</p> <p>5 Got the comments on jurisdiction</p> <p>6 regarding the Offshore Continental Shelf</p> <p>7 from Al Spackman and IADC. We will</p> <p>8 certainly try to deal with that.</p> <p>9 There are a number of issues</p> <p>10 related to offshore platforms that are</p> <p>11 critical in the sense that we need to be</p> <p>12 clear about who has jurisdiction over what</p> <p>13 and at what time. Roger on that.</p> <p>14 The one for Maritime Alliance,</p> <p>15 some great questions. A number of people</p> <p>16 have raised this issue. The terms aren't</p> <p>17 quite clear to me. Ports versus port</p> <p>18 commissions versus port facilities versus</p> <p>19 the U.S. term of ports in general versus</p> <p>20 terminals, how do they all relate to one</p> <p>21 another, and we will take a round-turn on</p> <p>22 that and make sure we come out with very</p> <p>23 clear and very understandable definitions</p> <p>24 that deal with that.</p> <p>25 I would just offer that the way to</p>	<p style="text-align: right;">Page 104</p> <p>1 their particular area. The output of that</p> <p>2 would be captured in what is called, what</p> <p>3 we're calling a port plan.</p> <p>4 Part of that recognition by the</p> <p>5 port plan would be the recognition that some</p> <p>6 vessels have vessel security plans and some</p> <p>7 terminals located within the port area are</p> <p>8 required to have plans, facility security</p> <p>9 plans, and so you have the combination of</p> <p>10 vessel plans, vessel security plans,</p> <p>11 facility security plans, all encompassed</p> <p>12 within that portwide plan.</p> <p>13 Think about the area contingency</p> <p>14 plan model again. You have an over-arching</p> <p>15 pollution response plan, but there are still</p> <p>16 vessel response plans and there are still</p> <p>17 facility response plans.</p> <p>18 The drafters of the legislation</p> <p>19 had that model in mind when they drafted the</p> <p>20 Marine Transportation Security Act, hence,</p> <p>21 you get a model that looks very much like</p> <p>22 OPA in its design.</p> <p>23 The term "port facility" is an</p> <p>24 international term that relates to the</p> <p>25 construct of ports and the nature of their</p>

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1 business that's dealt with in Europe and  
2 other parts around the country. Don't be  
3 confused about it, we're not going to adopt  
4 the term "port facility" here in the United  
5 States, we're going to talk about port  
6 plans, facility plans and vessel plans, and  
7 we'll try to make that very clear in our  
8 guidance and our regulations.

9 A couple of things. A couple of  
10 people commented on shore leave for mariners  
11 and welfare of mariners. Let me just say  
12 that there are lots of discussion going on  
13 in that regard to deal with that issue. We  
14 recognize it's an issue, but let me say it's  
15 not just a Coast Guard issue. Lots of  
16 people are involved in it. TSA has been  
17 involved in discussion, MARAD has been  
18 involved in discussion. In fact, their  
19 administrator, Bill Schupert, and my boss,  
20 Paul Pluta, both sent a letter recently to  
21 the Office of Homeland Security specifically  
22 to elevate the discussion of that issue to a  
23 higher level, and a work group has been  
24 convened that involves INS, Department of  
25 Justice, Department of State, TSA, MARAD and

1 We're focused on managers. There was a push  
2 to gain even more transparency in the  
3 International Code than it has. It does  
4 have some elements in it that require  
5 transparency related back to ownership.

6 There is a continuous synopsis  
7 record required now on all foreign vessels  
8 that gives us some transparency into  
9 ownership, changes of flag, changes of  
10 ownership, and so forth, and ports of call.  
11 So some of those things have been paid  
12 attention to and we're continuing to focus  
13 in that area.

14 And I'll say one last thing, and  
15 that is: The grant program that was  
16 mentioned is now being headed up by MARAD,  
17 and as we get into the other questions,  
18 we'll ask MARAD for an update on that grant  
19 program.

20 COMMANDER ENGLEBERT:

21 We're going to talk about vessel  
22 security next.

23 This is Questions 13 through 23.  
24 I'm sorry, I apologize. 12.

25 And I'm going to allow a break

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1 Coast Guard, all to hammer out a solution to  
2 that somewhat difficult problem.

3 It somewhat relates to the  
4 credentialing issue, which we're going to  
5 talk about a little bit later, and I think  
6 TSA, Steve may be able to give us an update  
7 on where that credentialing issue stands.  
8 But, nevertheless, there's some serious  
9 policy issues that have to be dealt with by  
10 the United States. There are some  
11 reciprocity issues overseas that we would  
12 have to deal with, too. That's why it takes  
13 such a large group of agency folks to deal  
14 with those issues, because they're cross  
15 agency in their nature, involve a lot of  
16 people.

17 As you all may know, the driver on  
18 this problem is that the crew list exemption  
19 or crew list waiver no longer exists for  
20 shore leave in the United States for foreign  
21 crew members, so all foreign crew members  
22 pretty much, as mentioned, must stay on  
23 their vessels, generally speaking.

24 One other question, Bill O'Neil  
25 mentioned something about ship management.

1 now, and I ask you to please be here at  
2 11:30 ready to start the vessel discussion.

3 Also, Lt. Wright, could you please  
4 come and see me.

5 (Whereupon, a brief recess was taken.)

6 COMMANDER ENGLEBERT:

7 All right. If you have a seat,  
8 we'll start with Question 12, Vessel  
9 Security Provisions.

10 I realize the estimates are about  
11 550 of you here today, so I want to  
12 compliment the MSO and the district on their  
13 public affairs and compliment the maritime  
14 community on attending the public meeting  
15 and helping us frame some very important  
16 security requirements.

17 To continue, using the notice as a  
18 framework for this meeting in Appendix A,  
19 Question 12 on Vessel Provisions.

20 If somebody could close the doors  
21 in the back, so that those people still  
22 milling about, that noise wouldn't disturb  
23 the back.

24 The Coast Guard in Question 12  
25 discusses how it anticipates that it would

<p style="text-align: right;">Page 109</p> <p>1 accept national, state or industry standards  2 that could be used to meet the security  3 requirements. The thought there is that you  4 may choose to use equipment for the maritime  5 community that would assist you in securing  6 or controlling access to your vessel.  7 The questions we ask you are: Is  8 there a national, state or NSB standard that  9 you know of that could be used to meet the  10 security measures. And if there was one,  11 would you consider using it.  12 Question 13 talks about the  13 obligations of the company. The  14 international requirements detail the  15 company obligations and vessel security  16 plans would be required to describe how the  17 company meets these obligations.  18 The questions we ask you are: In  19 addressing the company obligations, is the  20 vessel plan enough, so if that information  21 is in the vessel plan, would that be enough?  22 Do you have any suggestions on how to insure  23 these obligations are met? And do you have  24 any suggestions on how to balance the towing  25 vessel company obligations to the barge</p>	<p style="text-align: right;">Page 111</p> <p>1 vessel security assessments, and that that  2 requirement would include an on-scene  3 security survey. It also speaks to the  4 Coast Guard's intention to review the vessel  5 security assessment when they have the  6 vessel security plans for approval.  7 We ask you to suggest how best to  8 conduct a vessel security assessment and to  9 address vessels on domestic voyages, whether  10 or not there's an alternative to a vessel  11 security assessment that you would like us  12 to consider.  13 Question 16 talks about the Vessel  14 Security Plan. The plans that we would  15 anticipate be submitted would have to  16 include addressing all three security  17 levels. It would take into account the  18 vessel security assessment results. The  19 plan would have to be reviewed and updated  20 periodically, and the Coast Guard is  21 thinking that the procedures in 33 CFR 155  22 could be used to submit the plans.  23 This is the Vessel Response Plan  24 procedures, that we're asking you to suggest  25 any additional items that you think the plan</p>
<p style="text-align: right;">Page 110</p> <p>1 company obligations for security.  2 Question 14 on Page 79745, there's  3 a list of what the Coast Guard proposes for  4 applicability of these requirements to  5 vessels. The applicability as proposed  6 would require all foreign vessels and all  7 U.S. flag ships and vessels, MODUs, subject  8 to Chapters D, H, I, I, A, K, L and O.  9 I just on the slide shorthanded  10 the very long list that's on Page 79745.  11 The notice proposes that vessel  12 security requirements would also be required  13 for small passenger vessels subject to  14 Chapter T if they're engaged in an  15 international voyage. In addition, barges  16 subject to Subchapters D, I or O, would have  17 to have security provisions as well as  18 towing vessels greater than six meters.  19 That is the proposal of the  20 notice. The Coast Guard is asking you if  21 this applicability is appropriate and if you  22 have any further suggestions for security  23 measures on these types of vessels.  24 Vessel Security Assessments,  25 Question 15, talks about the requirement for</p>	<p style="text-align: right;">Page 112</p> <p>1 should address. We're asking you to tell us  2 if you have a suggestion or a best practice  3 for vessel security plans in general, and  4 we're asking you to let us know what you  5 think about the procedures for a 33 CFR 155  6 submission.  7 I jumped ahead.  8 Question 17 specifically talks  9 about Vessel Security Plan Submission.  10 Most of you know the Maritime  11 Transportation Security Act requires the  12 vessel security plans to be approved. The  13 Coast Guard specifically intends to accept  14 non-U.S. flag vessels on SOLAS routes that  15 have valid ISPS Code certificates, meeting  16 Part A and some form to let the Coast Guard  17 know that they have also implemented Part B  18 without further requirements.  19 The U.S. flag vessel would have to  20 submit the vessel security plans for Coast  21 Guard approval. The Coast Guard is  22 considering alternatives such as corporate  23 plans or industry specific plans, as we  24 mentioned earlier, and a submission plan --  25 here is where I jumped ahead -- a submission</p>

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1 format similar to the Vessel Response Plans  
2 in 33 CFR 120.

3 We're asking for your suggestions  
4 on how to streamline approvals, and we're  
5 asking whether or not you believe this  
6 submission format is appropriate.

7 Question 18 talks about existing  
8 security measures for certain vessels.  
9 There are existing security measures  
10 outlined in 33 CFR, Part 120. They apply to  
11 large passenger vessels. Most of us call  
12 them cruise ships. The Coast Guard is  
13 evaluating the need to retain these  
14 requirements, and in our initial assessments  
15 we believe that the existing requirements  
16 equal the SOLAS requirements Part A and  
17 Part B.

18 We're asking if you believe that  
19 33 CFR 120 can be met by implementing the  
20 SOLAS requirements and the ISPS Code, Part A  
21 and Part B, and we're asking if you believe  
22 that there should be additional security  
23 requirements for certain vessel types.

24 Question 19 talks about vessel  
25 security recordkeeping. There is a

1 proposed. What is proposed is that the  
2 company would certify that a CSO has the  
3 knowledge, experience and maritime security  
4 competency to meet the requirements of the  
5 ISPS Code.

6 We're asking if you believe the  
7 Coast Guard should require formal CSO  
8 training, if you believe that company  
9 certification is appropriate for the CSO's  
10 competencies, and if two years is an  
11 adequate time frame to keep track of their  
12 participation in security exercises.

13 In a similar manner there are  
14 vessel security officer requirements. The  
15 company is to designate a vessel security  
16 officer. I bring to your attention there's  
17 no prohibition to a vessel security officer  
18 being a master.

19 Vessel security officers are to  
20 participate in security exercises as they  
21 are available. There is no course  
22 certifications or licenses for the VSO  
23 required at this time.

24 The Coast Guard is proposing that  
25 the company would certify a VSO, knowledge,

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1 requirement to keep certain security records  
2 on board and have those records available  
3 for review. The Coast Guard proposes that  
4 these records be retained for two years, and  
5 also proposes not to provide any mandatory  
6 format or prescribed placement of these  
7 records, just simply that they're available  
8 for inspection.

9 We would like to hear from you  
10 whether or not you have suggestions or best  
11 practices for these type of records, and if  
12 you believe we should prescribe a format or  
13 a placement for these records.

14 Question 20 talks about the  
15 Company Security Officer.

16 The company is required to  
17 designate a company security officer in the  
18 ISPS Code. These CSOs are required to  
19 participate in security exercises and to  
20 keep records of their participation for two  
21 years. The two years is a proposal from the  
22 U.S. Coast Guard, and we are interested in  
23 your comments on that time frame.

24 At this time, there are no course  
25 certificates or licenses for the CSO

1 experience and maritime security  
2 competencies to fulfill their duties, and  
3 we're also anticipating that we would  
4 provide some alternatives to a VSO for some  
5 vessel classes.

6 The questions we ask are: Should  
7 the Coast Guard require formal training? Is  
8 a company certification appropriate? And  
9 are there suggested alternatives to a VSO  
10 for certain vessel types that you believe we  
11 should consider.

12 Question 22 talks about security  
13 training and drills.

14 There is a requirement for vessel  
15 personnel that have specific security duties  
16 and responsibilities to be trained in those  
17 duties. It's also a requirement in the ISPS  
18 Code for vessel personnel to participate in  
19 security drills.

20 It talks to masters, vessel  
21 security officers and company security  
22 officers certifying the vessel personnel  
23 have received the training, and it proposes  
24 that records on training and drills be kept.

25 The questions we ask you are:

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1 Should the Coast Guard require formal  
2 training for vessel security personnel, and  
3 should a format for training or drill  
4 records be prescribed?

5 Question 23 relates to the  
6 Certification of Vessels.

7 As I stated earlier, the  
8 international and ship security certificate  
9 would be issued to vessels, U.S. flag  
10 vessels, on international voyages and would  
11 indicate that those vessels meet Part A and  
12 Part B of the ISPS Code.

13 It is anticipated that a vessel's  
14 Certificate of Inspection would only be  
15 issued after these requirements are in force  
16 if the vessel meets the requirements in the  
17 regulation.

18 In addition, for those vessels  
19 that are not currently inspected, some sort  
20 of proof would be required of compliance.

21 We're asking if you have  
22 suggestions for verification and  
23 certification.

24 And now to the heart of the  
25 matter. Questions 12 through 23, you can

1 might have large number of vessels that are  
2 basically consistent in design, function,  
3 and they might only vary in sizes, but the  
4 company would have photographs,  
5 architectural plans of these vessels. So in  
6 the comment period, perhaps, you know, there  
7 could be some kind of streamlining instead  
8 of the requirement for an on-site survey for  
9 each vessel, whether or not a classification  
10 of vessels could be certified with one  
11 prototype vessel being surveyed.

12 Thank you.

13 MR. ANUJ CHOPRA:

14 My name is Anuj Chopra from  
15 Anglo-Eastern Ship Management based in  
16 Houston. Some various comments on the  
17 questions really.

18 Regarding motion detectors, there  
19 was an experiment carried out by Japan on  
20 installing these in Malaga Straits. They  
21 failed miserably, they withdrew it, so we  
22 believe strongly that it's not practical  
23 just because of the various moving parts  
24 around the ship for activation.

25 Regarding training requirements,

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1 see the pages of the notice that we're  
2 talking about, for those following. I would  
3 like to open the floor for comments on  
4 company obligations, application of these  
5 requirements to vessels, vessel security  
6 assessment and plan requirements, the  
7 existing vessel security requirements, the  
8 personnel required to have training and  
9 their designation, the certification of  
10 vessels and the records the vessel owners  
11 and operators would have to keep, or any  
12 other vessel security-related topics that  
13 you wish to discuss.

14 The floor is now open.

15 MS. CAROL LAMBOS:

16 Hello. My name is Carol Lambos,  
17 again, Lambos & Young. I'm counsel to the  
18 United States Maritime Alliance.

19 I just have a question that  
20 perhaps the panel can address in the  
21 comments with regard to streamlining the  
22 process for vessel security assessments and  
23 perhaps vessel security plans, just to ask  
24 whether or not the Coast Guard anticipates  
25 any procedure for fleets, for companies that

1 yes, it may be nice to leave it to the  
2 company, but there would not be a unified  
3 standard. Perhaps we can go the STCW way,  
4 where there is an operator level and there  
5 is a management level, where the operator  
6 level may be left to the company, but the  
7 management level, that's the VSO or the CSO,  
8 is clearly mandated or guidelines given out.

9 Another issue which we are seeing  
10 increasingly now is from today leading up to  
11 the 1st of July, 2004, a lot of ports or  
12 captain of the ports are coming up with  
13 interim measures.

14 We would request for a unified  
15 approach on this as many of the ships which  
16 tramp along the coast are going to have a  
17 security retraining every two days to comply  
18 with the varying requirements which are  
19 existing. Three-fourths have already come  
20 out with slightly differing standards at  
21 this moment.

22 Regarding security or  
23 identification documents for people  
24 attending to vessels in ports.

25 At the moment for each of the



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1 ports, we are required to have a different  
2 security ID. For people like me or other  
3 port captains, it's quite a dilemma trying  
4 to get multiple security I cards to enter or  
5 attend to our vessels. I would request a  
6 unified ID card is issued by the Coast  
7 Guard, which would take care of all the  
8 boats.

9 Thank you.

10 MR. KEN WELLS:

11 Ken Wells, the American Waterways  
12 Operators.

13 COMMANDER ENGLEBERT:

14 I'm just going to interrupt for a  
15 minute.

16 I apologize. This is something  
17 that happened at the break that I forgot to  
18 mention.

19 For everybody that speaks, if you  
20 have a business card, we would appreciate if  
21 you would give us your business card so we  
22 can make sure that the transcript shows the  
23 proper spelling and your proper title. If  
24 you do not have a business card, please see  
25 myself so that we can make sure that the

1 through the security plans.

2 No. 14, with regard to dry cargo  
3 barges, these are barges that carry grain,  
4 lumber, coal, et cetera, these should be  
5 exempt. We do not believe that these barges  
6 in and of themselves would create a security  
7 risk or the likelihood of a security  
8 incident in and of themselves, and they  
9 would already be covered under the towboat  
10 plan or the facility plan. So they should  
11 be left out and not require a plan of their  
12 own.

13 No. 15, a detailed assessment as  
14 envisioned in the question is unnecessary  
15 for operators following the AWO model  
16 security plan or other plans of the sort.

17 No. 16, concerning vessel security  
18 plans. Companies that offer a similar fleet  
19 of vessels should have only one plan and  
20 then it should have addendas for each  
21 specific individual vessel.

22 No 17, verification of security  
23 plans should be by third party audit of a  
24 company's safety and security management  
25 plan.

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1 transcript reads correctly.

2 Thank you. I apologize.

3 MR. KEN WELLS:

4 I notice the number of questions  
5 goes up each time, but the time limit  
6 doesn't, so if I'm not able to adequately  
7 cover any of these points, I'd urge the  
8 towing industry representatives to come and  
9 speak themselves.

10 In terms of this section, most of  
11 these questions, we believe the AWO model  
12 security plan addresses them, and we'd  
13 reference you to that.

14 With regard to specific questions,  
15 No. 12, we don't believe that motion  
16 detectors improve security and certainly not  
17 as a cost effective improvement, they should  
18 not be required as part of the vessel  
19 security plans.

20 No. 13, responsibility for barge  
21 security starts with the barge owner and  
22 operator. Having said that, it is then a  
23 shared responsibility with the towing  
24 company, the barge owner/operator and the  
25 facility, and that should be worked out

1 No. 19, we urge you not to create  
2 a new process with prescribed formats for  
3 recordkeeping. Records should not be  
4 required to be kept onboard the vessel.  
5 Again, this creates the possibility for  
6 confusion which increases the risk to  
7 security, it doesn't mitigate it. And we  
8 think that there are a number of  
9 recordkeeping formats that give good  
10 examples of how this should be done. Things  
11 like drills, et cetera.

12 No. 20, the existing qualified  
13 individual requirements from OPA 90 should  
14 be the model, don't impose SOLAS or ISPS  
15 training requirements on domestic  
16 operations.

17 No. 21, again, the Coast Guard  
18 should not impose SOLAS or ISPS training  
19 requirements onboard domestic vessels.  
20 In-house training should be sufficient for  
21 VSOs. Company certification of a VSO is  
22 appropriate. And we believe the CSO or his  
23 designee should be able to serve as th VSO  
24 for barge or barges. Acronyms we never knew  
25 existed.

31 (Pages 121 to 124)

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1 And, finally, for 23, for barge  
2 and towing companies using the AWO model  
3 security plan, verification of  
4 implementation of their security plans could  
5 be achieved through a third-party audit and  
6 of the company's safety and security  
7 management system.

8 Thank you.

9 MS. HEDRICK:

10 Bill Hedrick, Rowan Companies  
11 again.

12 As to Item 12A and 12B, industry  
13 standards. As I briefly mentioned earlier  
14 this morning, the American Petroleum  
15 Institute, API, is developing RP 70. What I  
16 failed to mention was something that is  
17 perhaps more critical, and that is the Gulf  
18 Safety Committee's security subcommittee  
19 meeting, the first of which will convene  
20 tomorrow here in this city under the  
21 guidance of Guy Tetreau of the Coast Guard.

22 Part of the API process, of  
23 course, will utilize best practices and  
24 other recommendations that come forward from  
25 Mr. Tetreau's crew. We again respectfully

1 notice of significant loss of life,  
2 significant environmental damage, disruption  
3 of the transportation system, or disruption  
4 of the economic system in a particular area.

5 Finally, as to Nos. 20 and 22, the  
6 CSO and VSO training, we understand that in  
7 late December the Coast Guard submitted a  
8 training annex officially to IMO that  
9 addresses CSO and VSO training. We again  
10 advocate the adoption of industry  
11 performance-based standards. We feel it is  
12 imperative that industry be allowed to  
13 tailor our programs to meet our specific  
14 requirements, again based on threat  
15 assessment and other relevant criteria.

16 Thank you.

17 COMMANDER ENGLEBERT:

18 I'm going to interrupt for a  
19 minute and ask one of the staff to please  
20 put a cup or something to capture the cards  
21 next to the mike so that the people know  
22 where to put their cards.

23 Thank you. Okay. Next.

24 MR. KENNETH PARRIS:

25 Kenneth Parrish, Vice President,

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1 suggest that this sort of industry standard  
2 is in keeping with the Admiral's  
3 performance-based theme.

4 Having said that, as to Item No.  
5 14, we believe we failed as a group here to  
6 address perhaps the most critical issue, and  
7 that is the threshold issue, one of the  
8 vulnerability assessment.

9 We believe that that triggering  
10 point must be addressed first as opposed to  
11 generalizations which have been placed in  
12 the notice that all vessels that, for  
13 instance, fall under 46 CFR and whatever the  
14 applicable site may be, are, in all  
15 probability, going to need to comply with  
16 ISPS and the other requirements. Rather, we  
17 think the vulnerability assessment is  
18 absolutely critical and should be the first  
19 step.

20 Having said that, we do believe  
21 that the majority of offshore fixed and  
22 floating structures, as well as all of the  
23 nonself-propelled MODU fleet, do not have  
24 this vulnerability or threat that rises to  
25 the level adopting the language in the

1 Offshore Marine Service Association. OMSA.  
2 We're the national trade group representing  
3 the offshore support vessel industry.

4 I would like to say that we  
5 generally echo and support the comments of  
6 the other trade associations that are here  
7 today, IADC, API, American Waterways  
8 Operators, et cetera, and also would like to  
9 emphasize the need for accepting  
10 industry-developed master plans, port,  
11 company, facility, vessel, that can be used  
12 on a widespread basis with possibly the  
13 addendums of facility, vessel or company  
14 specific information so that a single  
15 consistent plan can be developed for the  
16 entire Gulf region, not a separate plan for  
17 each and every MSO throughout the region.

18 We would also caution against the  
19 strict application of new international  
20 standards to vessels that are on strictly  
21 domestic voyages and also ask or emphasize  
22 the need for a definition of the  
23 international voyage standards, as a small  
24 crewboat that services a platform is on a  
25 domestic voyage, but if it goes to a

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1 free-floating foreign flag vessel engaged in  
2 lightering operations, while it may actually  
3 go a shorter distance, would then be  
4 involved in an international voyage.

5 Thank you.

6 MR. ROBERT DOUVILLE:

7 Good morning. My name is Robert  
8 Douville. I'm the Director of Special  
9 Projects for Trico Marine Operators. We're  
10 an international operator, offshore support  
11 vessels, both U.S. and foreign flag. I want  
12 to address several but not all of the  
13 questions in this particular vessel group.

14 By the way, I'm also participating  
15 today as a member of the Lower Mississippi  
16 River Waterway Safety Advisory Committee in  
17 the spirit of the call from Captain Branch  
18 for the members to participate in this  
19 rule-making.

20 Vessel Security Requirements.  
21 Speaking personally and from my own  
22 experience in the previous role with the  
23 Coast Guard, and my familiarity with the  
24 Mississippi River and the vessels that  
25 operate here, I don't see how we can leave

1 vessel security plan, I think there's a  
2 question as to whether those countries'  
3 vessels should be allowed to operate in the  
4 United States without a United  
5 States-approved plan.

6 Existing security measures for  
7 certain vessels and added measures.

8 I think there should be added  
9 measures for vessels carrying cargos of  
10 particular hazards, those whose detonation  
11 would result in release of toxic or  
12 explosive gas clouds, high energy secondary  
13 explosion or sun spills, for example.

14 And one other point that I would  
15 like to make is that there should be a  
16 provision permitting a company to go to an  
17 RSO, and as a footnote, I think the Coast  
18 Guard should recognize RSOs, you're going to  
19 do it later, if you don't do it sooner, in  
20 my opinion. And you should be able to get  
21 an ISSC for vessels not required to have  
22 one, if you choose to do so on an optional  
23 basis. On those vessels, I want to say,  
24 that have a current and valid ISSC issued by  
25 an RSO, for example, the Coast Guard should

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1 things like water taxis, launches and pilot  
2 boats that serve the anchorages and so on,  
3 and the vessels that come and go on the  
4 river all of the time out of the mix with  
5 respect to security. It would have to be  
6 touched on in some way.

7 Vessel security assessment, I want  
8 to suggest along the lines of a master  
9 vessel security plan that my colleague Ken  
10 Parris just mentioned and that we strongly  
11 support for domestic OSVs operating from the  
12 relatively few ports on the Gulf Coast that  
13 support offshore oil operations, where a VSP  
14 master plan is permitted, that there be a  
15 corollary group VSA, vessel security  
16 assessment, should be provided for in the  
17 rules as well.

18 I want to suggest that there be  
19 some consideration given to bilateral  
20 reciprocity.

21 As you may know, we have vessels  
22 that operate domestically overseas for long  
23 periods of time in other countries. If those  
24 countries will not allow the vessel to  
25 operate domestically on a U.S.-approved

1 not require and engage in further security  
2 related inspection for issuance of a COI or  
3 annual or periodic inspections unless  
4 there's cause to do so.

5 Thank you.

6 MR. CHANNING HAYDEN:

7 Good morning. My name is Channing  
8 Hayden. I'm with the Steamship Association  
9 of Louisiana.

10 With respect to Question 17, I  
11 just want to remind everyone of the current  
12 problems that we have with some flag states  
13 and some class societies. And the Coast  
14 Guard is preparing to perhaps allow them to  
15 approve vessel security plans.

16 The Coast Guard has got to be  
17 prepared to disallow the approvals for some  
18 class flag states and class societies if it  
19 is proven that they're not keeping the  
20 vessel plans, et cetera, up to international  
21 standards.

22 Under the other vessel security  
23 topics down there, I would like to refer to  
24 the preliminary cost analysis on Federal  
25 Register Page 79751, in which the estimate

33 (Pages 129 to 132)

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1 is made that the company security officer or  
2 facility security officer would be paid  
3 \$150,000 a year. I would like to know if  
4 these jobs are going to be posted on  
5 Monster.com.

6 I believe that assumption to be  
7 somewhat overstated, especially when the  
8 following assumption says that some vessels  
9 and facility owners would designate the  
10 company security officer and facility  
11 officer duties to an existing employee and  
12 those collateral duties would take about  
13 25 percent of the employee's time.

14 So I think those two assumptions  
15 are somewhat inconsistent, and based on that  
16 I think the entire cost analysis needs to be  
17 reviewed.

18 Thank you.

19 CAPTAIN DEAN BRUCH:

20 I'm Captain Dean Bruch, a marine  
21 consultant, and I'm a member of the Gulf  
22 Coast Mariners Association and I'm Chairman  
23 of the Security Committee. And I wish to  
24 address No. 18, that's regarding passenger  
25 vessels.

1 the Lower Mississippi River and a hundred  
2 yard buffer zone in the Houston/Galveston  
3 waterway.

4 On the Lower Mississippi River,  
5 berthed naval vessels are protected with a  
6 100-yard buffer zone, whereas, berthed  
7 cruise ships are protected with only  
8 100 feet buffer zone. This relates to a  
9 hundred feet beam vessel passing within a  
10 beam width of a cruise ship.

11 Allowing this is not in the best  
12 interest of safe navigation or port  
13 security, the public or the passengers,  
14 which I go at least once a year, and I will  
15 fight that captain if I catch him going  
16 within a hundred feet of a vessel. And a  
17 hundred yard buffer zone is certainly a more  
18 appropriate good seamanship practice and  
19 Regulation 33 165.812 should be changed  
20 accordingly, like yesterday.

21 Thank you.

22 MR. KEVIN STIER:

23 I'm Kevin Stier with the Diamond  
24 Jo Casino in Dubuque, Iowa. We are active  
25 members of the Passenger Vessel Association.

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1 If your regulation, if you feel is  
2 sufficient or otherwise, and I was shocked  
3 to see that the two recent regulations put  
4 out, 165.812, I'm sure that's 33, and  
5 there's 165.813, and that addresses a  
6 security zone around passenger vessels. And  
7 I was shocked to learn that for the  
8 Mississippi River the United States Coast  
9 Guard feels 100 feet off of a cruise ship is  
10 safe.

11 Now, that's the width of this  
12 room. Now, I disagree with you people.  
13 Now, over in the Houston Ship Channel, it is  
14 100 yards, which is more reasonable. And  
15 going in Barber's Cut Up there, well, they  
16 even wisely so put it where you could go  
17 within less than a hundred yards.

18 So I wrote on, just commented on  
19 this, and I'm sorry I didn't do it in June,  
20 because I didn't see it in the Federal --  
21 I'm not on the mailing list. But, anyway, I  
22 said port security, security zone for cruise  
23 ships separation criteria. Why does the  
24 U.S. Coast Guard believe a hundred foot  
25 buffer zone is adequate for cruise ships on

1 And I would like just to comment  
2 that I hope that the Coast Guard continues  
3 to work with the Passenger Vessel  
4 Association in the acceptance of their  
5 security guidelines to be used for vessel  
6 security assessments and plans.

7 Thank you.

8 MR. ROSS JOHNSON:

9 I'm Ross Johnson, the Company  
10 Security Officer of Atwood Oceanics in  
11 Houston.

12 Just an observation.

13 A vessel with an acceptable vessel  
14 security assessment plan should not be  
15 considered cleared or safe from a security  
16 standpoint. To do that would also require  
17 us to examine the background intentions and  
18 intentions of the operator.

19 A terrorist organization would  
20 probably conduct a pretty good security  
21 assessment plan just to avoid the extra  
22 scrutiny.

23 Thank you.

24 MR. WAYNE FARTHING:

25 I'm Wayne Farthing with the

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1 International Organization of Masters, Mates  
2 and Pilots.

3 With regard to training and vessel  
4 security officers, I think we need to  
5 revisit the workload on the ship's crews on  
6 these ships. In the past few years, the  
7 ships have lost the radio operators, the  
8 pursers, the ordinary seamen, a number of  
9 ABs and the fourth or the second, third  
10 mate. Now we're going to be asking them to  
11 train crews, keep records. We feel that the  
12 recordkeeping is maybe something that ought  
13 to be done by the company security officer  
14 and that the individuals, with the exception  
15 of ship specific items, ought to be trained  
16 before they come to the vessel.

17 I think that concludes my  
18 conversation on that subject.

19 MR. JAMES GORMANSON:

20 I'm Jim Gormanson with Noble  
21 Drilling in Sugar Land, Texas. I have a  
22 couple of comments. One that deals with the  
23 certification of the company security  
24 officer and the vessel security officer.

25 We believe that it's incumbent

1 Guard's predilection to apply ISPS  
2 provisions to a list of vessels identified  
3 in the who should attend public meetings.  
4 Actually, there were two lists in that  
5 section. One included recreational vessels,  
6 uninspected passengers vessels, uninspected  
7 fishing vessels, military installations and  
8 vessels. So it's not really clear except in  
9 the Coast Guard's presentation this morning  
10 that it intends to only use the smaller list  
11 of previously inspected vessels.

12 Secondly, the maritime  
13 Transportation Security Act, Section 70102,  
14 A and B, require the Coast Guard or actually  
15 the secretary -- I presume that's now  
16 Mr. Ridge's obligation -- to conduct the  
17 assessments for the various types of vessels  
18 to determine a threshold level as to whether  
19 or not they pose a threat.

20 That threshold level, no attempt  
21 has been made by the Coast Guard in its  
22 notice to define that other than to imply  
23 that those vessels that are subject to  
24 inspection pose a threat while those that  
25 aren't, don't.

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1 upon the company to certify those  
2 individuals and not set it up for, you know,  
3 certification by some other body. We're the  
4 ones that have those assets and we believe  
5 that we need to provide the security for  
6 them.

7 And No. 2 is the vessel security  
8 plans and certification. Under your  
9 proposal, you indicate that foreign vessels  
10 would be accepted if they have international  
11 certification; however, that does not  
12 address the foreign MODUs, in particular, if  
13 they're now self-propelled. And if they're  
14 not addressed, then why address the U.S.  
15 nonself-propelled MODUs.

16 Then that brings up another point.  
17 U.S. nonself-propelled MODUs on an  
18 international voyage aren't covered by the  
19 international convention. So, again, why go  
20 there?

21 Thank you.

22 MR. ALAN SPACKMAN:

23 Alan Spackman, International  
24 Association of Drilling Contractors.

25 The notice indicates the Coast

1 This seems inconsistent and does  
2 not seem to be an effort to improve  
3 security, rather, an effort to put window  
4 dressing on an already regulated industry.

5 In Question 13, the Coast Guard  
6 would apply Part A, Section 6 of the ISPS  
7 Code to this whole suite of vessels, which  
8 imposes responsibilities from the master.  
9 Many of the vessels that the Coast Guard has  
10 put on that list do not have masters, and it  
11 is unclear to us that the authority that the  
12 code envisions that the master has actually  
13 devolves to the master in those situations.  
14 Operators of unexpected towing vessels, for  
15 example, we would question.

16 Also, the ISPS Code points to a  
17 definition of "company" that derives from  
18 the ISM Code. That definition relates to  
19 the authority, legal authority over  
20 operations.

21 For operations involving oil and  
22 gas exploration and production operations,  
23 we would note that the OCS Lands Act, 43  
24 USC 13:48 imposes specific obligations on  
25 the operator or leasee.

35 (Pages 137 to 140)

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1 The Coast Guard needs to look at  
2 that if they are not going to accept an  
3 industry-derived plan for OCS operations.

4 Thank you.

5 MR. PETER HILL:

6 Peter Hill, Risk Reliability and  
7 Safety Engineering, Manager of Offshore  
8 Regulatory Services.

9 I wanted to address the safety  
10 zones that are provided for in 33 CFR, Part  
11 146, which is under the Outer Continental  
12 Shelf regulations. A number of large  
13 floating and some fixed facilities in the  
14 Gulf of Mexico have applied for these zones,  
15 largely as a measure toward collision  
16 avoidance, but also as a measure of security  
17 for the platforms.

18 These are strictly a warning-type  
19 device where we hope that a mariner who's  
20 aware of the charts and aware of the notices  
21 to mariners that identify these zones and  
22 the regulations will avoid the platform to  
23 the specified regulatory distance of 500  
24 meters.

25 We think that the security actions

1 and I just have one comment. And that's  
2 that the committee take -- I encourage them  
3 greatly to make a distinction between  
4 domestic overnight passenger vessel and the  
5 international passenger vessel industry.  
6 Although we're very small, we don't want to  
7 be forced to adhere to the unrealistic and  
8 unreasonable IMO and SOLAS standards that  
9 are required of international vessels and  
10 the domestic ones not be subject to those as  
11 well.

12 Thank you.

13 MR. TED THOMPSON:

14 Ted Thompson, International  
15 Council of Cruise Lines.

16 I don't know if I should agree  
17 that the IMO requirements are unrealistic or  
18 not.

19 Two comments. The existing  
20 security measures for certain vessels, 33  
21 CFR 120, 128. We feel those have served us  
22 very well and we don't envision those going  
23 away.

24 Secondly, with regards to the  
25 training and certification of company

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1 that are under consideration need to  
2 reconcile with and perhaps even replace the  
3 safety zone provisions in 33 CFR.  
4 500 meters is not that meaningful a  
5 distance. For a ship traveling at any type  
6 of speed, that does not provide a window of  
7 opportunity to completely abandon a facility  
8 in an extremous situation, so some of these  
9 distances need to be looked at.

10 And the other thing that I think  
11 is problematic is that the way the rule is  
12 structured, it currently requires a  
13 rule-making to affect a safety zone, so  
14 that's something we think should fall back  
15 in the security venue to the captain of the  
16 port.

17 Thank you.

18 MR. JEFF KINDL:

19 My name is Jeff Kindl. I'm Vice  
20 President with River Barge Excursion Lines.  
21 We operate the RIVER EXPLORER, which is  
22 America's only hotel on a barge in the  
23 domestic overnight passenger industry. We  
24 operate over 3800 miles on the Mississippi  
25 River and on the Gulf Intracoastal Waterway,

1 security officers, ship security officers, I  
2 know IMO is looking at the caps tables,  
3 knowledge, assessment and demonstration of  
4 proficiency, and with that kind of  
5 guidelines, we support the comments that  
6 have been made regarding the companies  
7 certifying their own security officers.

8 Thank you.

9 MR. REG WHITE:

10 My name is still Reg White, I'm  
11 still from Hawaii.

12 I just find it inconsistent under  
13 No. 17 that under OPA 90, we do not accept  
14 the vessel response plans from foreign flag  
15 vessels when they arrive in U.S. waters, but  
16 we propose here to accept their vessel  
17 security plans. I don't understand the  
18 disparity there, because I feel an oil  
19 pollution incident has far less long-term  
20 damage to the United States, its economy and  
21 its people than a successful terrorist  
22 incident does.

23 I think this should be looked at  
24 very carefully.

25 Thank you very much.

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1 MR. CHARLES KING:

2 I'm Charles King from Buffalo  
3 Marine Service in Houston, and I'm a vice  
4 president.

5 Let the record show that I  
6 previously deposited my business card.

7 In regard to Questions 13 and 16  
8 in the obligation of the company,  
9 specifically for vessels' security plans, I  
10 believe that third-party audit is in order,  
11 that that audit report should be made  
12 available to the Coast Guard upon request,  
13 not necessarily as a routine matter.

14 As far as the responsibility of  
15 the company for its barges in tow, I believe  
16 that they have a responsibility to know  
17 what's contained in the cargo as well as in  
18 the void spaces, and the requirements should  
19 be from the owner of the company or from the  
20 charterer who is responsible for that cargo.

21 I would also ask that you take  
22 into consideration the differences between  
23 barges and the products that they carry, the  
24 companies that operate, own and operate  
25 those and the companies that tow them.

1 recognize again the differences between  
2 boats, barges and towboats as they exist.

3 Also, in regard to recordkeeping,  
4 a company security officer, vessel security  
5 officer, training, drills and recordkeeping,  
6 that's a lot of additional responsibility  
7 requiring training, money, and the different  
8 sizes of companies on the inland waterway  
9 should be a subject that you would consider  
10 very carefully.

11 Let me once again say that the AWO  
12 model security plan covers these quite  
13 adequately, and I would recommend that you  
14 would look at that seriously as a standard  
15 and a vessel plan to be approved.

16 Thank you.

17 MR. BILL O'NEIL:

18 Good morning, again. My name is  
19 Bill O'Neil. I deposited my card when I was  
20 up here earlier this morning.

21 I just wanted to make an  
22 observation to perhaps give the Coast Guard  
23 and the U.S. a little bit more jurisdiction  
24 over foreign flag vessels. And one of the  
25 areas that was not specifically addressed in

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1 There's definitely a difference in regard to  
2 what their responsibility should be.

3 As an example, our barges are  
4 specifically used for carrying bunkers, fuel  
5 for ships, almost exclusively within port  
6 facilities. They are under our purview  
7 about 90 percent of the time, day in and day  
8 out, and that barge security is considerably  
9 different than a company that has barges and  
10 boats that operate throughout the  
11 Intracoastal Waterway and the river system  
12 of the United States under the towage of a  
13 third party or even of their own boats.  
14 Their security is considerably different  
15 than ours because those barges can remain in  
16 a fleet for in excess of 24, 48 hours, and  
17 have to be under the purview of a fleet  
18 operator, only to be picked up by maybe a  
19 third-party boat or another boat of the same  
20 company. There has to be some transfer of  
21 responsibility.

22 Under Question 18, Existing  
23 Security Measures, I'm not sure that there  
24 may be a necessity for additional  
25 requirements under 33 CFR 120, but at least

1 the legislation that occurred to me when I  
2 was just sitting here this morning is that a  
3 number of container ship operators and  
4 foreign flag container ship operators are  
5 required to file with the Federal Maritime  
6 Commission alliance agreements, consortia  
7 agreements, and I would suggest that to the  
8 extent that the Federal Maritime Commission  
9 can exercise any weight over security plans  
10 of entities that are in alliances or  
11 consortia seeking the privilege to trade in  
12 the United States, that the FMC should weigh  
13 in on security.

14 Thank you.

15 COMMANDER ENGLEBERT:

16 Okay. Thank you for your  
17 comments.

18 I just wanted one note to the  
19 media. We said that we'd be available at  
20 12:00. We're hoping that that has been  
21 moved to 12:30, so now I'll open the panel  
22 and have some remarks made.

23 Admiral.

24 ADMIRAL HERETH:

25 Lots of great comments on that

37 (Pages 145 to 148)

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1 last segment. We appreciate it. I won't  
2 try to rehash everything. Let me just look  
3 at some of the highlights.

4 One of the drivers, a couple of  
5 questions by, I think Bill Hedrick mentioned  
6 it, along with some other people, dealt with  
7 the applicability issue. And, of course,  
8 one of the drivers is you have to realize  
9 under MTSA, the drivers transportation and  
10 security incident, and there's a definition  
11 in there that probably needs some  
12 clarification. But, basically, I will read  
13 it to you.

14 It sees, "Means a security  
15 incident resulting in a significant loss of  
16 life and burn hull damage, transportation  
17 system disruption or economic disruption in  
18 a particular area."

19 So the Government is charged with  
20 doing an initial assessment to look, scan  
21 the horizon, and look for things that could  
22 cause or could be involved in transportation  
23 security incidents and then use that  
24 analysis as the driver for applicability on  
25 any rule-makings that will happen.

1 waters, we're assured that they meet the  
2 requirements of both Part A and Part B in  
3 the ISPS Code.

4 That has been forecast by the  
5 Coast Guard from the get-go. It should not  
6 be a surprise to anybody that's working in  
7 that arena. But, nevertheless, sometimes  
8 it's confusing, because if you look at the  
9 ISPS Code, which we have a copy of it in the  
10 public notice, there's some confusion about  
11 what part applies to me. And the answer is  
12 we're going to apply both Parts A and B  
13 domestically.

14 There were a couple of questions  
15 about controls. We still have plenty of  
16 ways to control foreign vessels. Generally  
17 speaking, when a company tells us they  
18 comply with Part A and Part B, there are  
19 certain obligations they must fulfill under  
20 the International Codes. Provided they  
21 follow those requirements, we will treat  
22 their statement to us that they comply with  
23 Part A and Part B as kind of like prima  
24 facie evidence that they meet the standards.  
25 But don't think that that's the end of our

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1 We have done that a couple of  
2 times already using our captain of the port  
3 network throughout the country with port  
4 security risk assessment tools that have  
5 been vetted in many different ways. We're  
6 now on Version No. 2 of that. We have just  
7 released that and asked for some action by  
8 the local units to take another look at that  
9 issue.

10 That drives the applicability, but  
11 that's still under discussion and being  
12 worked.

13 Let me just say a few comments  
14 about the application of the International  
15 Code domestically.

16 First of all, we don't intend to  
17 pile on and add lots of domestic  
18 requirements that are not reflected in the  
19 International Code. The Coast Guard will  
20 adopt both Part A and Part B of the  
21 International Code and make it mandatory for  
22 international vessels plying our waters,  
23 both domestic and foreign. So we still have  
24 to set up the arrangements with foreign  
25 countries so that when they do enter U.S.

1 look at those vessels and our concern for  
2 those vessels.

3 Recall that now we have this  
4 advance notice of arrival process that used  
5 to be 24-hour notice, now it's been  
6 ratcheted up to 96 hours. Also, recall that  
7 previously we probably asked for about a  
8 dozen parameters of information, now we get  
9 about three dozen parameters of information,  
10 and that information is vetted through a  
11 number of agencies at the national level.

12 We're looking at all sorts of data  
13 bases, all sorts of intelligence items, all  
14 sorts of things that concern people, cargo,  
15 and the vessel itself, so anybody headed in  
16 our direction will be very thoroughly  
17 screened.

18 We still have lots of authority  
19 through our boarding officers, through the  
20 Coast Guard, through our patrols, through  
21 our high-interest vessel boarding program,  
22 ways in which we screen vessels, run them  
23 through a, what amounts to a port stay  
24 control matrix, and then we board a number  
25 of vessels that are coming into the country



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1 anyway.

2 If we suspect that there are any  
3 deviations and that a vessel does not in any  
4 way comply with Part A and Part B, we will  
5 immediately begin our control procedures for  
6 that vessel. Again, the controls range from  
7 the very modest to the very severe.

8 A couple of questions about safety.  
9 zones or security zones, actually. I hear  
10 you, Captain Bruch, you don't like the  
11 dimensions. There are security zones now  
12 all throughout the country, they are worked  
13 by the captain of the port and his or her  
14 office. I would encourage any of you, if  
15 you are concerned about security zones in  
16 your particular area, please link up with  
17 your local office, they're the ones that  
18 work the details on that, they're the ones  
19 that work the rule-making requirements that  
20 are generated locally. All those  
21 rule-making requirements are visited and  
22 reviewed by our regional offices called  
23 District Offices, one of which is here in  
24 New Orleans that covers the Gulf, and then  
25 they go up to headquarters where they are

1 Lots of great comments from the last  
2 segment, but let me stop there and see if  
3 Steve from TSA or MARAD has any comments to  
4 add.

5 MR. STEVE RYBICKI:

6 Yes, Admiral. Thank you.

7 From TSA, both in this segment and  
8 the last segment, we heard concerns  
9 regarding identification cards and the need  
10 of a uniform identification card across all  
11 transportation modes for all transportation  
12 workers.

13 TSA is working on this, it's  
14 called the Transportation Worker  
15 Identification Card. We have a number of  
16 pilot projects planned in L.A. and Delaware,  
17 the Delaware River Group, to go ahead and  
18 put this thing together, look at the  
19 technologies that could be used and the  
20 operational parameters of the card, the  
21 biometrics, et cetera, et cetera, but the  
22 intent is to have a Transportation Worker  
23 Identification Card. It can be used as a  
24 tool for facilities, for vessels, to gain  
25 access, both physical and logical, to the

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1 processed into the rule-making agenda. So  
2 if you have any concerns about the security  
3 zones, Roger, we're trying to insure that  
4 there's a consistent approach around the  
5 country, but it certainly has been a  
6 challenge with all the security zones in  
7 place to try to get some consistency and  
8 common understanding about what the purpose  
9 of a security zone is.

10 Keep in mind that a security zone,  
11 unless it's enforced and unless it has some  
12 teeth behind it, is simply a regulation that  
13 allows you to hammer somebody if they  
14 intrude in your security zone. The reality  
15 is, the rest of the story is equally  
16 important. Who is actually going to enforce  
17 the security zone, when can they get a boat  
18 out there, or do they have a boat out there  
19 all the time, and what can they do about  
20 responding in an armed fashion, for example,  
21 if that need arises.

22 So all good questions and roger on  
23 your concern about security zones and the  
24 dimensions, that's being worked on, also.

25 Let me just stop right there.

1 facility. Thanks.

2 ADMIRAL HERETH:

3 The transportation worker identity  
4 card relates somewhat to maritime  
5 credentials. That issue is being worked by  
6 the International Labor Organization, ILO,  
7 and there was some comment made about that.  
8 They have a couple of agenda items. Their  
9 formal session comes up in June next week.

10 Commander Dave Scott, right down  
11 in the front row here, from our office is  
12 working with them on the intercessional work  
13 group that will address some of those  
14 issues, one of which is enhanced maritime  
15 credentials worldwide.

16 There is a convention from 1958  
17 that needs to be updated. ILO has taken  
18 that on with a very aggressive posture and  
19 we had some good discussions just last week  
20 with some of their principals. I look  
21 forward to that being resolved. In an ideal  
22 world, if we could snap our fingers, we  
23 would like to see an enhanced worldwide  
24 maritime identification card that has some  
25 kind of high tech provisions to it. We

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1 would also like to see that being used in  
2 some way, shape or form under the  
3 transportation worker identity card solution  
4 that's devised in the United States so that  
5 mariners do not have to have a number of  
6 different cards. And I think the  
7 possibilities are there to do some good  
8 work, but it still needs quite a bit of  
9 staff attention.

10 Let me make one other comment, and  
11 that's about cost.

12 I believe it was Channing Hayden  
13 that offered some wisdom on the cost  
14 analysis section. Channing, and for the  
15 information we have -- Dave, would you stand  
16 up and just identify yourself?

17 Dave is our chief economist that's  
18 working the cost issues, and you have  
19 another staff member from our office, Amy,  
20 are you here, can you raise your hand?  
21 There she is.

22 These two folks are leading up the  
23 cost analysis in this reg project, which is  
24 a very big project. And, Dave, I'll just  
25 ask you to jump in here and just say 30

1 docket, in addition to the public docket, so  
2 if you folks want to give us some good cost  
3 estimates, the Bureau of Labor statistics  
4 did not have a company security officer  
5 heading, so, you know, any sort of help you  
6 folks can give us we would appreciate.

7 ADMIRAL HERETH:

8 What that means, just let me  
9 amplify that, is Dave and the other  
10 economists on the staff tried to reach out  
11 and gain some good cost data, but most  
12 people were unwilling to share that  
13 information, they thought it was proprietary  
14 in nature, and that's fine. But there is a  
15 segment in the docket that is set up for  
16 proprietary or sensitive security  
17 information, so if you're willing to share  
18 that information with us, or willing to tell  
19 us where our numbers are coming out too high  
20 or too low, again, it would help us, you  
21 know, make sure that we do some good cost  
22 analysis, make sure we understand what we're  
23 doing in the cost realm.

24 It's a big deal to us, it's a big  
25 deal to you, we understand that, and that's

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1 seconds' worth of comment about the cost  
2 analysis -- sorry about that -- but these  
3 people want to go to lunch, and this is a  
4 key challenge for us, and this is one area  
5 where we could use your advice and counsel.  
6 And Dave can talk to the \$150,000 cost, but  
7 if you would deal with that, we still need  
8 your help on making sure that our numbers  
9 are even in the ballpark of where they need  
10 to be, so thank you.

11 MR. DAVE HOUSER:

12 Well, I've been doing Coast Guard  
13 regulations for about five years, and this  
14 is the first time somebody said our costs  
15 are too high, so we appreciate that.  
16 Usually it's the opposite that we get.

17 Specifically for the \$150,000,  
18 it's not the salary of the person, it's the  
19 fully-loaded cost of the company, and we  
20 base that on Bureau of Labor statistics and  
21 threw in the multiplier for health insurance  
22 and computers and Social Security.

23 I do want to point out that we're  
24 going to be talking about cost later in the  
25 afternoon, and that there is a proprietary

1 why we're trying to make sure that we try to  
2 deal with it as accurately as we possibly  
3 can, given the diversity that we're trying  
4 to deal with.

5 COMMANDER ENGLEBERT:

6 Okay. Thank you for this  
7 morning's participation. We will reconvene  
8 here. Right now by my watch, it's a little  
9 bit past 12:30, but I would like to  
10 reconvene at 1330, 1:30 this afternoon, and  
11 continue with facilities and then other  
12 security provisions, including the cost  
13 analysis.

14 For those media in the room,  
15 please come forward to the podium so that we  
16 can provide approximately ten minutes to  
17 you.

18 (Whereupon, a luncheon recess was taken.)

19 COMMANDER ENGLEBERT:

20 I'm going to start. We're going  
21 to talk about Facility Security Provisions  
22 next. This is Questions, in the notice, 24  
23 through 32.

24 The first topic for discussion  
25 would be Incorporation by Reference, similar

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1 to vessels. We're asking or anticipating  
2 that we would accept national, state or  
3 industry standards that could be used to  
4 meet the security requirements, and we're  
5 asking you if you know of national, state or  
6 industry standards that would be  
7 appropriate, and if they are appropriate,  
8 whether you would use them.

9 In the Facilities Security  
10 Requirements, I will again point to Page  
11 79745, and on that page under the Who Should  
12 Attend from Facilities Security Perspective,  
13 we list three groups. Facilities that  
14 handle cargo regulated under 33 CFR, Part  
15 126, 127 and 154. Facilities that service  
16 vessels certified to carry more than 150  
17 passengers, and facilities that service  
18 vessels engaged on international voyages,  
19 and that includes the Great Lakes.

20 We're asking you if this proposed  
21 application is appropriate and if you think  
22 there are additional security measures that  
23 should be imposed.

24 Similar to vessels again, the  
25 facilities security assessment would be

1 would be a valuable tool for you to use.

2 Question 28, the submission of the  
3 facility security plans. We anticipate the  
4 facility security plans would be approved.  
5 They will be approved by the Coast Guard at  
6 the captain of the port level. That  
7 alternatives could be considered such as  
8 companies that own and operate both the  
9 facility and the vessels that fall in the  
10 facility, and we're anticipating a  
11 submission process similar to that in 33 CFR  
12 120.

13 We're asking you to provide us  
14 input on suggestions to streamline the  
15 approval process and ask you if you believe  
16 that 33 CFR 120 submission format is  
17 appropriate for a facility security plan.

18 Facility security recordkeeping.  
19 We proposed in the notice in Question 29's  
20 discussion that security records would be  
21 required to be kept, that the records would  
22 be available for review. We propose that  
23 those records be kept for two years and we  
24 propose not to prescribe format or placement  
25 of those records.

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1 required. The Coast Guard would review the  
2 assessment when they're reviewing and  
3 approving the facilities security plans.

4 We're asking if you have  
5 suggestions on how to do a facility security  
6 assessment and also if you believe that  
7 facilities servicing vessels exclusively on  
8 domestic voyages should be provided  
9 appropriate alternatives to the assessment  
10 requirement.

11 Facility security plans would have  
12 to cover three security levels, would have  
13 to take into account the facility -- that  
14 should be F -- security facility assessment  
15 would have to be reviewed and updated, and  
16 the Coast Guard has proposed to provide an  
17 outline of its content similar to the  
18 outline provided for facility response plans  
19 in 33 CFR 155.

20 We're asking for your suggestions  
21 on additional items that might be required  
22 under the facilities security plan. We're  
23 asking you to discuss best practices for the  
24 facility security plan requirements, and if  
25 you believe that an outline for the plan

1 We're asking you to provide us  
2 suggestions of best practices for this and  
3 we're asking your opinion on whether or not  
4 the Coast Guard should prescribe the records  
5 format and if we should prescribe its  
6 placement in the facility documentation.

7 Facility security officers. The  
8 facility owner and operator would be  
9 requested to designate a facility security  
10 officer. The facility security office would  
11 be asked to participate in security  
12 exercises as available and to keep records  
13 of that participation for two years.

14 The Coast Guard does not  
15 anticipate requiring course certifications  
16 or licenses for facility security officers  
17 at this time. And the Coast Guard is  
18 proposing that the company certify the  
19 facility security officers' knowledge,  
20 experience and maritime security competency.

21 We ask you a series of questions  
22 under 30. Should the Coast Guard require  
23 formal training? Is the company  
24 certification appropriate? Could the same  
25 facility security officer be designated for

<p style="text-align: right;">Page 165</p> <p>1 multiple facilities, is that a reasonable 2 thing that we could allow for security? 3 And, also, is two years the right amount of 4 time to keep records on participation? 5 Question 31 talks about security 6 training and drills for facility personnel. 7 Facility personnel that have a 8 specific security duty would be required to 9 be trained. They are also required to 10 participate in security drills. Facility 11 security officers would be asked to certify 12 that personnel received the training and 13 records of their training and those drills 14 would be kept. 15 We're asking if the Coast Guard 16 should require formal training of these 17 facility personnel and should a format for 18 the training and drills be prescribed for 19 the record. 20 In Question 32, we ask you to 21 discuss with us the certification for 22 facilities. We anticipate that the Coast 23 Guard would review and approve the 24 facilities security plan and the company 25 would certify that the facility implemented</p>	<p style="text-align: right;">Page 167</p> <p>1 Thank you. 2 MS. CAROL LAMBOS: 3 Carol Lambos, Lambos &amp; Young, 4 Counsel to the United States Maritime 5 Alliance. 6 I would just ask the panel to 7 please comment on this very specific 8 question. 9 The Code requires that the 10 facility security assessment be performed by 11 the facility. The NAVIC requires that the 12 facility security assessment be performed by 13 the facility, yet, the MTSA states that the 14 secretary shall perform these assessments, 15 so this is a critical issue to the industry, 16 who is going to be responsible for the 17 assessments. And we would need guidance 18 from the Coast Guard on that and to 19 determine which prevails. 20 I understand the Code has the 21 effect of a treaty in that a treaty 22 obligation would supersede the MTSA, but, 23 perhaps, the Coast Guard can provide 24 guidance on that issue. 25 Thank you.</p>
<p style="text-align: right;">Page 166</p> <p>1 the plan and meets the requirements. 2 The Coast Guard is also 3 anticipating inspecting the facility to 4 verify its compliance with the facility 5 security plan. 6 We're asking if you have any 7 suggestions to verify and certify 8 facilities, and we're also asking whether or 9 not the Coast Guard should allow companies 10 to certify their facilities, basically, a 11 self-certification question. 12 Facilities security provisions 13 cover Questions 24-32, Page 79749 of the 14 notice. They include incorporation by 15 reference application of these requirements, 16 the facilities, the assessments plan, 17 facility security officer and personnel, 18 certification and records and other security 19 facility security topics. 20 The floor is now open for 21 discussion of these matters. Please 22 remember, three minutes. Please say your 23 name and line up behind -- if you haven't 24 been here this morning, line up behind the 25 microphone to discuss your issues.</p>	<p style="text-align: right;">Page 168</p> <p>1 MR. BART LOOMIS: 2 My name is Bart Loomis. I have a 3 small company in New Orleans, J.H. Menge &amp; 4 Company. I've worked on the river the last 5 27 years, Level 3 liquid product, marine 6 loading arms and the annual maintenance of 7 those 16-inch flanges to vessels there off 8 of the docks, primarily with the refineries 9 and petrochemical plants. 10 I recommend including in your 11 group to talk with the Louisiana Chemical 12 Association, which is headquartered in Baton 13 Rouge, which is all of the chemical plants 14 in the state, and certainly all of those 15 have the facilities along the river. 16 That association, their members 17 have very firm ISO 9000 written documented 18 records which they keep longer than two 19 years in order to secure their own OSHA and 20 the physical handling of this level of 21 product. 22 The standards are an effort that 23 need to come about. The cost impact of all 24 of this needs to be added up. 25 Thank you.</p>

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MR. MIKE KICE:

My name is Mike Kice. I'm Corporate Safety & Environmental Director for P&O Ports. We're a very large terminal operator and stevedoring company. We work from Maine down to Texas and Brownsville, to Portland, Maine, and also we're one of the three to four largest in the whole world.

We have in place many programs for safety and environmental security, and which we've enhanced security within a recent time framing. We have current Coast Guard regulations, OSHA regulations, EPA regulations, Customs, MARAD, local law enforcement, all with many, many common issues. And we have the current new voluntary program, Command for Marine Terminals to Seapath under the Customs Program.

We ask that any program be holistic in approach, and that we don't want to have one program just for Coast Guard, one program just for Customs, one program for the EPA security issues, which is very minor with our industry, but have a system

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small, we can actually learn more within our own operations by doing tabletop issues. It's much more cost effective, much more beneficial in the long run for us.

Facility security officer. I think it's going to be -- in each port we operate in, we have safety personnel, our line management acting as that, and we might have facilities, two or three different facilities in our operation, so we would ask that it be common within each port that we could use a single facility security officer.

Third-party recordkeeping for training. We are members of associations who keep records for us for our longshore industry, our longshoremen, that we can utilize a third party to keep our recordkeeping. And we would ask that you remember that governmental has law enforcement powers, private industry does not have law enforcement powers, and we would not like to get into law enforcement. So issues that are important for law enforcement should stay within law

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that's all together that we can utilize for all. And we must not conflict with the Mobil jurisdictions that we are confronted with.

OSHA may tell us one thing, which we have to comply with that, could be contrary to other areas. So we would endorse very much that the Coast Guard give us an outline on a port facility security plan.

Facilities security assessments, an alternative we've used recently is the actual inspections the Coast Guard has done for us in our different facilities, where they have come out with their facilities and actually do the hands-on inspections with our personnel. It has been very effective for us and has taught us a lot with that side.

Drills and exercisers. I would like to recommend that we consider some type of tabletop system, some meetings. Sometimes actual drills have been counterproductive for us. What we've had is, you have a very large facility or very

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enforcement, not within the private industry.

Thank you.

MR. JAMES PRAZAK:

James Prazak from Dow.

A couple of comments I have on the Facility Security Requirement, No. 25.

The jurisdiction of the Coast Guard is still a little bit confusing, not so much which facilities are regulated, but what portions inside the facility. When you talk about real major facilities that have a lot of production units inside, it's a little bit confusing how to bring all that in into one jurisdiction and everything. Although, I guess the key thing, though, we do want a single lead agency for security. We don't want to dilute the efforts by having to deal with a bunch of local agencies and state agencies and Federal agencies. As much as possible, we would like one consolidated, single lead agency. And I guess what we're trying to do is encourage all the other stakeholders to get involved in this process and in the port

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<p style="text-align: right;">Page 173</p> <p>1 security committees where they can have 2 input rather than developing their own 3 regulations. 4 As far as alternatives for the 5 facility security assessments and 6 vulnerability assessments, things like the 7 American Chemistry Council Program are 8 things we would like to see approved. 9 Looking at suggestions for our 10 best practices for that, one of the things 11 we need is the security to be integrated 12 into the one-plan concept since most 13 incidents, terrorists incidents, are going 14 to involve a release of product or fire or 15 something of that nature. Incorporating 16 that into your overall security plan -- I 17 mean, your overall one-plan concept, it ties 18 it all together, the security initially and 19 then also the response to that incident. 20 Submitting these plans, I'll just 21 ditto on my earlier comments on having a 22 master plan approved with site specific 23 appendices. 24 Recordkeeping. We need to reduce 25 recordkeeping as much as possible. We</p>	<p style="text-align: right;">Page 175</p> <p>1 We want to be able to leverage 2 those people, they have a lot of knowledge. 3 We want them to be able to be our FSO for as 4 many facilities as we think they can 5 actually manage just so we can leverage 6 their knowledge. 7 Thank you. 8 MR. KEN SMITH: 9 My name is Ken Smith, and I'm with 10 J. Connor Consulting in Houston. And we are 11 consultants, regulatory consultants for the 12 oil and gas industry. Among other things, 13 we write oil spill response plans, I think 14 the majority of the ones that have been 15 written in the Gulf of Mexico, and we write 16 facility response plans. 17 I guess our request of the Coast 18 Guard is that along the lines of what was 19 just mentioned, that any security plan 20 requirements, it be considered that they be 21 integrated into existing response plans for 22 review purposes and also for exercise 23 purposes along the prep exercise lines. 24 And that's it. 25 MR. JOE PORTO:</p>
<p style="text-align: right;">Page 174</p> <p>1 understand that there's an interest in 2 recordkeeping because it's a compliance 3 tool. The bulk of recordkeeping doesn't 4 really enhance security, namely, from the 5 fact that we don't want our security guards 6 focused on a pad of paper and filling out 7 dates and times. We want his eyes and ears 8 outside to what's happening around him, 9 that's how we take care of security. 10 The other thing is that, not only 11 is the guard providing us security, but we 12 expect every person within our facilities 13 and on our vessels to provide security, you 14 know, they're all eyes and ears that help us 15 protect things. 16 The two-year requirement for 17 records, or a suggestion, that to me seems a 18 little bit excessive or unnecessary, namely, 19 because I'm not so concerned about what I 20 did three months ago with security. What 21 I'm worried about is what I'm doing right 22 now, what I'm going to do tomorrow, and what 23 I'm going to do in the future. 24 My last comment is on the facility 25 security officer.</p>	<p style="text-align: right;">Page 176</p> <p>1 Joe Porto with the U.S. Attorney's 2 Office, Southern District of Texas. 3 In your Facility Security Officer, 4 Question 30, we believe that the Coast Guard 5 should require FSOs to attend training and 6 endorse that, and also provide a minimum 7 standard certification to include license 8 state security officers and/or peace 9 officers licensed by the state, as well as 10 the requirement that they be legal residents 11 of the United States and/or citizens of the 12 United States. 13 We also endorse ISPS Codes, Parts 14 A and B, Section 18, as well as Section 109 15 of the MTSA. 16 Thank you. 17 MR. TED THOMPSON: 18 Good afternoon. Ted Thompson 19 again with the International Council of 20 Cruise Lines. 21 A couple of comments. 22 Facility security officers 23 recognizes that you have to put in the 24 details of the duties and responsibilities. 25 As you're aware the cruise ships operate</p>

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1 somewhat differently than possibly some of  
2 the others where we kind of have a turnkey  
3 operation. We're not responsible for the  
4 terminal when we're not there, but when we  
5 come in, we provide the terminal security  
6 officer. So you're actually talking about  
7 two different people here with different  
8 corresponding duties and responsibilities,  
9 and I would ask that the Coast Guard keep  
10 that in mind when they're codifying this,  
11 and that that type of issue may apply to  
12 other parts of the marine industry as well.

13 And I know, Suzanne, that you are  
14 aware of that. I just ask you to keep it in  
15 mind.

16 Secondly, with facility security  
17 plans being reviewed by the Coast Guard,  
18 captain of the port. Having gone through  
19 the Coast Guard regulations for passenger  
20 vessel and terminal security and two NAVICs  
21 with a change, one to the first NAVIC, we've  
22 found it takes a lot of interface with the  
23 captains of the port and a lot of training,  
24 if you will, of the people that are  
25 reviewing these plans. A lot of times it's

1 the delineation between where Coast Guard  
2 jurisdiction and some other Federal agency,  
3 yet to be defined, would have jurisdiction  
4 for contiguous facilities. For facilities  
5 that are clearly delineated and separated,  
6 we don't seem to find a problem, but for  
7 facilities that are integrated, such as  
8 integrated refineries, chemical plants and  
9 maritime operations that share a common  
10 property, we do feel that there needs to be  
11 further delineation of jurisdiction.

12 We would hope that that  
13 jurisdiction would fall on an agency that  
14 already has some level of security expertise  
15 and not one that is developing it as we go.

16 With regards to certification and  
17 records, we concur that records are a  
18 administrative burden and not necessary.  
19 However, with regards to certifications, we  
20 would encourage the Coast Guard to use  
21 existing certification programs such as  
22 those found by the American Society of  
23 Industrial Security, as is. They have many  
24 existing security certifications that are  
25 fully appropriate.

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1 petty officers and all they have is the  
2 written word in front of them. They don't  
3 really have a security background.

4 Our request would be that the  
5 Coast Guard undertake training their  
6 officers and petty officers at Yorktown to  
7 understand more than just the written word  
8 of the intent and what security actually is.

9 Thank you.

10 MR. ROBERT RHEEM:

11 Good afternoon, Rob Rheem with  
12 Shell Oil.

13 I want to concur with the comments  
14 that were made earlier by James Prazak with  
15 Dow Chemical and add to that with regards to  
16 the facility security assessments and plans,  
17 we would encourage the Coast Guard to  
18 incorporate by reference the programs that  
19 are currently in place by the American  
20 Petroleum Institute as well as the ACC, so  
21 that we might include both refineries and  
22 chemical plants.

23 Also, the issue of jurisdiction is  
24 one that we find very serious and one that  
25 we feel needs serious consideration. One is

1 To concur with the gentleman who  
2 just spoke, if we're going to have  
3 certification and qualifications on the  
4 industry side, we would hope that the Coast  
5 Guard would embark on an educational process  
6 as well to bring their inspectors up to  
7 speed on security practices and procedures  
8 and not just those as we find defined in the  
9 regulations in the ability to say "yes" or  
10 "no," that they are or are not present, but  
11 in order to have wholesome discussions on  
12 their effectiveness.

13 Thank you.

14 MR. CHARLES KING:

15 I'm Charles King with Buffalo  
16 Marine Service in Houston, and I'm a vice  
17 president, and have one comment in regards  
18 to facility plans.

19 I would encourage the Coast Guard  
20 to come up with some sort of a guideline in  
21 regard to realization that the maritime  
22 industry has to have access to the marine  
23 facility dock area, and that they would  
24 encourage facility plans, writers of  
25 facility plans and owners of the facility

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1 plans to allow for that, rather than a total  
2 exclusion of marine personnel.

3 MR. BILL O'NEIL:

4 Good afternoon. My name is Bill  
5 O'Neil. I made some observations and  
6 comments this morning.

7 On the facility provisions, I  
8 would like to just make one observation.

9 The regulations seem to address  
10 both owners and operators. And I use the  
11 "and," and the Lower Mississippi River is a  
12 little bit unique in that many of the port  
13 districts are the owners of the facilities  
14 and those facilities are leased to the  
15 operators.

16 One of the questions I would have  
17 is who is going to be required to have a  
18 security plan, is it the port district, the  
19 owner, or is it the person that leases it?  
20 If it's the owner, can the person who's  
21 leasing rely on the owner's plan and  
22 vice-versa? So I just pass that on for some  
23 consideration because I'm not sure that the  
24 legislation is clear.

25 Second, in reading the

1 matter of coming up with a couple of  
2 standard ways in which that can occur.  
3 Basically, people on the ship will  
4 be cleared through some mechanism yet to be  
5 determined. We talked about that a little  
6 bit this morning with the credentialing  
7 issue. But assuming that foreign crew  
8 members, for example, have access to shore  
9 leave, which is the intent, then that could  
10 be dealt with in the security arrangements  
11 that the facility makes to receive a vessel,  
12 and it can be in the agreement, the -- what  
13 am I thinking of -- the Declaration of  
14 Security can address those procedures. So  
15 there are mechanisms that we can put in  
16 place to deal with that, so I think that can  
17 be overcome.

18 The jurisdictional issue that was  
19 raised. We recognize that there are lots of  
20 agencies out there. We also have written  
21 into the guidance and intend to offer the  
22 opportunity to combine the security plans  
23 with any other plan you want to combine it  
24 with. There are a couple of targets of  
25 opportunity, but we're willing to allow you

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1 legislation, I think there is a troublesome  
2 area, anyway, to me, and that is, what is  
3 the facility's responsibility with respect  
4 to people leaving a vessel, going across and  
5 going into town, and what is the facility's  
6 responsibility with respect to preventing  
7 people from getting on a ship, exchanging  
8 the plans and working together and the ship  
9 showing its plan to the facility and the  
10 facility showing its plan to the ship and  
11 saying, "I'll do this and you do that"?  
12 I think this needs some real careful thought  
13 and refinement. It has to be addressed, but  
14 I, frankly, don't know what the answer is.

15 Thank you.

16 COMMANDER ENGLEBERT:

17 Okay. Seeing no further  
18 commenters, I'll turn it over to the Admiral  
19 for his thoughts. Admiral.

20 ADMIRAL HERETH:

21 Bill, if you don't know, give us a  
22 recommendation. Think about it a little  
23 bit.

24 The ship/facility interface issue  
25 is a good one, but I think it's just a

1 to combine your security plan with other  
2 plans that are out there.

3 We are in discussions with other  
4 agencies that are on the waterfront that  
5 might have, from your perspective anyway,  
6 overlapping jurisdiction. For example, EPA  
7 for a chemical facility is the obvious  
8 agency that you might scratch your head and  
9 say, "Okay. What's EPA going to do in the  
10 security world anyway?" And I don't think  
11 that's clear yet. But we're in discussions  
12 with them and we want to make sure that  
13 there's no duplicative jurisdiction.

14 If you look at a VIN diagram,  
15 there should not be overlapping Federal  
16 jurisdiction in the security arena. It  
17 should be clear, there should be an agency  
18 you can go to that deals with security for  
19 your particular piece of property, whether  
20 it's a vessel or a facility. We're trying  
21 to be very clear about that. We know that's  
22 important to you, and we have heard that  
23 from other fronts.

24 Incorporate by reference, we  
25 certainly will try to do that of any



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1 industry standard that's out there that  
2 provides some kind of equivalent level of  
3 security.

4 And let me just comment again on  
5 another issue that's tough that was raised.  
6 The whole law enforcement issue related to  
7 guards on facilities is a tough one. It  
8 needs lots of work. It needs some protocols  
9 established. It needs definitions and we  
10 don't have the answer yet, but we're working  
11 on it.

12 If anybody has any suggestions in  
13 that area. There are a couple of  
14 interesting trade associations that relate  
15 to security that we're talking to, there are  
16 some other security guard-related standards  
17 that are out there that need to be looked at  
18 very closely that might have some  
19 applicability to what we're trying to  
20 accomplish, but, essentially, we're kind of  
21 plowing new ground and we want to make sure  
22 that that particular area is dealt with very  
23 carefully as we put this into place around  
24 the country. So any suggestions that you  
25 might have, I guess my request to all of you

1 things tomorrow, a couple of meetings on The  
2 Hill with some Congressional staffs and also  
3 presentation of a workshop, so I apologize  
4 for having to depart now, but I've asked  
5 Captain Dale to pick up in my absence, along  
6 with Commander Scott Book from my office.

7 We're taking notes and I really  
8 wanted to say before I leave, I really  
9 appreciate all the great comments we're  
10 getting.

11 One of the first challenges we  
12 have is to make sure we get all the issues  
13 on the table, and so meetings like this are  
14 very, very helpful to us in getting those  
15 issues down on a piece of paper in the front  
16 of someone's face so they can actively work  
17 on it. And, obviously, we still have a lot  
18 of work to do, we don't have all the  
19 answers. We have made some good progress,  
20 and again, comments from you today have been  
21 excellent and I would like to congratulate  
22 you on it.

23 Thank you very much. Excuse me.  
24 **COMMANDER ENGLEBERT:**  
25 Okay. The next discussion, we'll

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1 would be to take that away as a homework  
2 assignment. Talk about security guards, how  
3 they should be defined, how they should be  
4 trained, what their use of force policy, if  
5 you want to call it that, should be and how  
6 that relates to your particular operation.

7 That's a challenging issue, but,  
8 as I said, we have lots of law enforcement  
9 talent that are already debating, discussing  
10 and trying to come up with some rational  
11 approach to that issue, but it is a  
12 challenge and we recognize that.

13 Steve or Ray, would you care to  
14 add any comments?

15 (No response.)

16 **COMMANDER ENGLEBERT:**

17 Then we'll continue. You had a  
18 big long break, so I'm not going to give you  
19 one now.

20 **ADMIRAL HERETH:**

21 I was going to say, before we  
22 start this next section, I'm sorry, but I  
23 need to excuse myself. I've got to catch a  
24 flight back to D.C.

25 I'm on the docket for a couple of

1 talk about Questions 33 through 40. This is  
2 a potpourri, so to speak, of all of the  
3 other issues that were addressed in the ISPS  
4 Code and the SOLAS Amendments, and also some  
5 issues that you've been seeing in the last  
6 year and a half to do with security.

7 The first one is, Question No. 33  
8 talked about the permanent hull-marking  
9 requirement. The SOLAS Amendments adopted  
10 in December made a requirement for all  
11 vessels on SOLAS, subject to SOLAS, have a  
12 permanent hull-marking of their ship's  
13 number. And the Coast Guard does not  
14 intend, and so spoken, it's noticed to not  
15 intending to require domestic vessels to  
16 have this permanent hull-marking.

17 The question we ask of you is:  
18 Should we be requiring domestic vessels to  
19 have the null marking requirement?

20 Question No. 34 talks about the  
21 continuous synopsis record.

22 Once again, SOLAS Chapter 11-1,  
23 Regulation 5 requires that all SOLAS vessels  
24 maintain a continuous synopsis record.

25 The Coast Guard is not proposing

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1 that vessels on domestic voyages have this  
2 record, and we're asking you if you believe  
3 that domestic vessels should have this  
4 requirement.

5 Question 35 talks about the  
6 security alert system. SOLAS Chapter 11-2,  
7 Regulation 6 talks about this alert system,  
8 requires it on SOLAS vessels.

9 The Coast Guard in its notice  
10 discusses the idea that this might be a  
11 beneficial requirement for domestic vessels  
12 that are engaged in the transportation of  
13 certain dangerous cargos. We also believe  
14 that there may be some benefit to certain  
15 passenger or towing vessels having this  
16 security alert system.

17 And if you're not familiar with  
18 this security alert system, the concept is  
19 something like a silent bank alarm where  
20 someone would be able to press the alert and  
21 somebody on the shore would hear it but  
22 nobody on the vessel would hear the alert.

23 The questions the Coast Guard is  
24 asking is would this benefit vessels engaged  
25 in the transportation of certain dangerous

1 Identification Card, that is being  
2 developed. In the interim the Coast Guard  
3 last August published a criteria in a notice  
4 called Maritime Identification Credentials  
5 that talked to a stop gap that we proposed  
6 and are using currently.

7 The question we pose to you is:  
8 Should the policy notice be changed to  
9 capture additional forms identification in  
10 the interim, because it's an interim measure  
11 until the transportation security card gets  
12 complete.

13 Question 38 talks about the  
14 advance notice of arrival. There is an  
15 MPRM for the advanced notice of arrival that  
16 was published and the comment period has  
17 closed. The notice discusses the Coast  
18 Guard's intention to include additional  
19 information, specifically in SOLAS Chapter  
20 11-2, Regulation 9, there's talk about  
21 additional information that a ship has to  
22 have. One example of this would be the last  
23 ten ports that it visited.

24 Also, foreign flag vessels and the  
25 indication that they're in compliance with

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1 cargos and should other vessels on a  
2 domestic route have this requirement?

3 Question 36 talked about fixed and  
4 floating platforms. It discussed the  
5 resolution that INL passed to talk about  
6 security and fixed and floating platforms.  
7 Our notice highlighted the work that we're  
8 currently doing with the offshore industry,  
9 and you have heard some discussion on that  
10 earlier today. And the notice also explains  
11 that we are considering mandating security  
12 requirements.

13 The question we ask of you is:  
14 Should offshore platforms have security  
15 requirements mandated?

16 Seafarers identification has also  
17 been mentioned in passing this morning. The  
18 discussion in Question 37 of the notice  
19 talks about ILO's work to update the  
20 requirements in ILO 108, and, hopefully,  
21 adopt them in June 2003.

22 Also, you'll see in the Maritime  
23 Transportation Security Act that there's a  
24 transportation security card, or some people  
25 call it the Transportation Workers

1 Part B may be something that an advance  
2 notice of arrival would be helpful to have  
3 that information before the ship arrives at  
4 port.

5 And, thirdly, in the proposed  
6 notice, we propose that certain barges  
7 operating above Mile Marker 235 on the  
8 Mississippi River may be subject to advance  
9 notice of arrival and we're seeking your  
10 comments on that, and also we're seeking  
11 your comments on any other additional  
12 information you believe that for security  
13 purposes the advance notice of arrival  
14 should have.

15 Question 39 is about foreign port  
16 assessments. Of course, the act discusses  
17 foreign port assessments, and those  
18 assessments are to consider anti-terrorist  
19 measures in foreign ports and how that  
20 foreign port has addressed them.

21 The Coast Guard lays out in the  
22 notice that it intends to accept foreign  
23 port compliance with SOLAS and the ISPS Code  
24 as an initial security assessment or an  
25 initial anti-terrorist measure of its acts,

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1 and that we are considering some sort of an  
2 audit scheme for foreign ports.

3 The question we ask you is:  
4 Should approval for port facility security  
5 by contracting governments be accepted; in  
6 other words, a foreign government saying  
7 that their port meets SOLAS and the ISPS  
8 code, should we accept that, and are there  
9 other factors that should be considered to  
10 assess the effectiveness of anti-terrorism  
11 measures in a foreign port, other things  
12 considered.

13 Question 40 talks about automatic  
14 identification systems. AIS requirements  
15 were recently accelerated due to the  
16 adoption of the SOLAS Amendments, and, also,  
17 if you look at the Maritime Transportation  
18 Security Act, it accelerated implementation  
19 of AIS on certain vessels.

20 There is a separate notice of  
21 proposed rule-making on AIS that we hope to  
22 have published in the near future. We  
23 frankly wanted it published before you came  
24 here today, but that didn't happen. So,  
25 please, write a big note to yourself to look

1 you your opinions on the cost for MARSEC 2  
2 and 3. We asked you to comment on the  
3 impacts to small businesses, to Indian  
4 tribal governments and possible impacts to  
5 energy concerns. We also asked you to  
6 comment on other cost considerations that  
7 you wish to bring to our attention.

8 So a lot to cover in this session.

9 Questions 33 to 40, including the  
10 preliminary cost discussion, the floor is  
11 now open for people that choose to comment  
12 on other security provisions.

13 MR. JAMES GORMANSON:

14 Hi. My name is Jim Gormanson with  
15 Noble Drilling in Sugar Land, Texas.

16 On Comment No. 33, my company  
17 currently has two nonself-propelled MODUs  
18 that are undocumented. One is in  
19 international service located in Mexico.

20 The question here is marking  
21 requirements. Well, there's no number  
22 assigned to this vessel because it's not  
23 registered, and the question here is: How  
24 is the Coast Guard going to treat the  
25 undocumented vessels in international

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1 in the Federal Register for that notice,  
2 because it's going to be there.

3 To highlight, that notice talks  
4 about application Premaritime Transportation  
5 Security Act. The Maritime Transportation  
6 Security Act has a broader application and  
7 includes commercial vessels over 65 feet,  
8 passenger vessels, towing vessels over  
9 26 feet or 600-horsepower, and other vessels  
10 that the secretary deems necessary for safe  
11 navigation; in other words, MTSA allowed a  
12 much broader application.

13 The Coast Guard is asking what you  
14 think about a broader application, and if  
15 you believe that there's a certain area of  
16 the navigable waters that should not have to  
17 have AIS requirements.

18 And, finally, it's not a numbered  
19 question but we asked you a series of  
20 questions about the preliminary cost,  
21 Appendix C. In Appendix C, we attempted to  
22 lay out exactly what we felt would be the  
23 cost to you as near as we could get it, and  
24 we're asking you a series of questions about  
25 the cost assumptions we made, and we asked

1 service?

2 And No. 34 is the synopsis record.  
3 How do you treat that? You know, if it's an  
4 undocumented vessel, how do you treat a  
5 synopsis record of that, because the  
6 administration is required to keep that, not  
7 us.

8 38, advance notice of arrival.

9 Ten ports is kind of a stretch for  
10 a MODU. Ten ports, maybe the last two  
11 years. Now, if we're sitting out there on  
12 the Outer Continental Shelf, hopefully, we  
13 don't drag this thing in for the next five  
14 years, you know, if it's gone out after a  
15 drydocking or anything like that.

16 We do everything offshore, so a  
17 little more reasonable time period there, in  
18 particular, if you're considering MODUs.

19 AIS, oh, what a good topic.

20 The best tool known for terrorists  
21 and pirates. Heck, if I was a pirate or a  
22 terrorist, you know, AIS gives me all the  
23 information necessary, you know, to raid  
24 that vessel. Course, speed, you know, where  
25 it's going, and it's not required for

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1 nonself-propelled vessels. That's an  
2 exemption in SOLAS, Chapter 5. So, you  
3 know, again, use a little bit of  
4 consideration.

5 Thank you.

6 MR. VINCENT COTTONE:

7 Vince Cottone, Chair, Gulf Safety  
8 Committee.

9 The Coast Guard, the Minerals  
10 Management Service and facility operators  
11 have and continue to assess the risk of  
12 security incidents to offshore oil and gas  
13 facilities. With the exception of a few  
14 locations, most offshore oil and gas  
15 facilities in the Gulf of Mexico are  
16 categorized as having low potential for  
17 security incidents resulting in significant  
18 loss of life, environmental damage,  
19 transportation system disruption or economic  
20 disruption. This is because of remoteness  
21 environmental controls already in place, and  
22 a lack of potential to have a major impact  
23 on people.

24 You've already heard the American  
25 Petroleum Institute has industry security

1 industries in the development of  
2 non-regulatory cost effective solutions.

3 Thank you.

4 MR. CHANNING HAYDEN:

5 Channing Hayden, Steamship  
6 Association of Louisiana.

7 I believe my memory serves me  
8 correctly when I say that the COLE was  
9 attacked by a Zodiac loaded with explosives.  
10 On that basis, why is the Coast Guard  
11 considering exempting any vessel from any  
12 security requirements? Hull markings,  
13 continuous synopsis records, et cetera.

14 It wasn't until just a minute ago  
15 that the gentleman pointed out to me  
16 something I didn't realize, and that is that  
17 the AIS is a perfect tool for a terrorist.

18 Thank you.

19 Having said that, if you are going  
20 to require AIS, then again, I think you have  
21 to require it for every vessel. Anything  
22 that floats that's within the VTS zone has  
23 to participate within AIS.

24 I think the Coast Guard needs to  
25 consider these factors, in addition to

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1 guidelines in place and these are currently  
2 being changed at vulnerability and risk  
3 assessment guidelines. These can be used as  
4 a base for offshore facility security plans.

5 We propose using these documents  
6 to address requirements for fixed and  
7 floating platforms and MODUs engaged in  
8 drilling.

9 The Gulf Safety Committee has  
10 taken a proactive approach to bringing  
11 together all Gulf of Mexico stakeholders to  
12 develop voluntary security guidelines for  
13 offshore oil and gas facilities.

14 We advised the Coast Guard  
15 headquarters of our efforts and have  
16 requested their support and participation.  
17 We also request here that you allow the Gulf  
18 Safety Committee to continue to be engaged  
19 in a dialogue to develop security plans,  
20 guidelines and/or procedures for offshore  
21 oil and gas operations in the Gulf of  
22 Mexico.

23 We encourage the Coast Guard to  
24 continue their practice of prevention  
25 through people by partnering with affected

1 which, if you're going to have silent alarms  
2 and you're going to have AIS, I would  
3 suggest that they be integrated so that it's  
4 part of the same system.

5 Thank you.

6 MR. JAMES PRAZAK:

7 James Prazak with Dow.

8 First, on No. 37 on the seafarers  
9 identification. One of our concerns goes to  
10 the international process and the  
11 requirements that are going to be on the  
12 international level.

13 Our concern is with forged or  
14 counterfeit documents. We know they exist  
15 today and, really, to insure an adequate  
16 level of security, the Coast Guard needs to  
17 develop stringent requirements for those  
18 credentials, either vetting the agencies  
19 that are issuing the credentials, especially  
20 on those countries that are already  
21 questionable as posing a risk to our  
22 security.

23 The other thing is, you know, what  
24 happens to the person when you find a person  
25 with false credentials. Sending him back

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1 home is not going to fix the problem,  
2 because until you make the penalty  
3 sufficient to affect them, they're still  
4 going to take that risk of having false  
5 credentials.

6 On foreign port assessments, very  
7 similar. We think in general the Coast  
8 Guard can accept the foreign port  
9 assessments except for again the countries  
10 that we already have concerns about. In  
11 those countries the Coast Guard is going to  
12 have to monitor performance to decide if  
13 those ports are doing an adequate job and  
14 then work with those countries to improve  
15 things, if they need to.

16 The factors to consider. One of  
17 these that's really important is probably  
18 the former working group. One thing we see  
19 is that if I know I'm going to be audited, I  
20 can be on good behavior and probably pass  
21 just about anything. The people who really  
22 know how good that port is doing are the  
23 people that call on that port, the people on  
24 the vessels, so having a working group  
25 working with the vessel owners to see and

1 acres and many, many units inside.

2 The last comment. Again, on the  
3 cost, once we get basic security in place  
4 with fencing and cameras and all that kind  
5 of stuff, there's really a small incremental  
6 cost, probably between MARSEC 1 and MARSEC  
7 2, the big cost from a business standpoint  
8 is going to be when you go to MARSEC 3,  
9 because in some cases we may stop shipping  
10 certain cargoes and the business  
11 interruption and that potential, there's a  
12 huge cost to that.

13 Thank you.

14 MR. WILLIAM HEDRICK:

15 Good afternoon. Bill Hedrick with  
16 Rowan Companies. Addressing No. 37,  
17 Seafarers Identification Criteria.

18 One of the things that seems  
19 somewhat silent in the notice is the  
20 industrial crew. As an example, on a  
21 nonself-propelled jackup, approximately 95  
22 percent of the personnel assigned to that  
23 unit do not carry merchant marine documents  
24 of any kind or nature. Rather, the majority  
25 of employers in the offshore E&P sector

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1 get their input is probably going to be real  
2 valuable.

3 AIS, I kind of second some of the  
4 comments that were made earlier on AIS.  
5 Another issue or concern I've got on AIS is  
6 the real benefit of it. And one of the key  
7 things we see is that the biggest concern is  
8 when you don't see an AIS system sending the  
9 data in because you've got a blip out there.  
10 But AIS seems to be more of a benefit to  
11 navigation than it does to security. I may  
12 not know everything about AIS, I probably  
13 don't, but it just seems hard to understand  
14 the true benefits of it right now.

15 And then on the equipment on your  
16 cost analysis, the types of equipment look  
17 reasonable. We did some quick checks on  
18 some of the line items that were listed and  
19 they seemed reasonable. What we think we  
20 might be underreporting is the number of  
21 units, like the number of cameras that may  
22 be required for a big facility and things of  
23 that nature. So it might actually be much  
24 larger because of the -- especially when you  
25 talk about a big facility that's hundreds of

1 perform extensive background investigations.  
2 These are done quite timely and, frankly,  
3 the only problem we have with going forward  
4 with this alternative to the transportation  
5 workers identification scheme is the fact  
6 certain data bases are off limits to the  
7 individuals that conduct our background  
8 investigation.

9 Two quick examples. One, the INS  
10 Watch List is off limits; two, OFAC, the  
11 Office of Foreign Asset Control. On that  
12 website 5,000 terrorists and terrorist  
13 organization identities are maintained. We  
14 as a self-insured workers' comp employer are  
15 required to use that list and not pay an  
16 employee workers' comp benefits if they're  
17 on the list. Yet, we're not allowed to use  
18 that same list to stop hiring the guy in the  
19 first place.

20 What we think needs to be done is  
21 to explore some logical alternatives,  
22 understanding that in many cases, certainly  
23 in the Gulf of Mexico offshore, the vast  
24 majority of folks involved in the E&P  
25 business are not licensed seamen.

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1 We do not believe that the 30,000  
2 individuals that work offshore every day  
3 need to go to the extent proposed by the  
4 maritime -- or excuse me -- the  
5 transportation worker identification  
6 credential system. We believe you should  
7 adopt alternatives.

8 Thank you.

9 CAPTAIN DOUGLAS GRUBBS:

10 My name is Captain Douglas Grubbs.  
11 I'm with the pilots in New Orleans, in fact,  
12 Louisiana. My remarks have do with AIS.

13 We would like to see every vessel  
14 operating in a regular navigational area to  
15 be outfitted with AIS. We feel that AIS is  
16 the most significant increase in navigation  
17 and technology since the beginning of radar.  
18 It may be the most complete information  
19 system, the most complete navigational  
20 system, better than ARPA, better than radar,  
21 more accurate, and a lot more information.

22 When pilots are piloting ships,  
23 tows, anything, if there's a blimp, a black  
24 spot in their radar, that would be the same  
25 as an AIS system with certain classes of

1 industry sees no benefit in requiring  
2 permanent hull markings for vessels limited  
3 to domestic voyages.

4 Question 34, continuous synopsis  
5 record. No, we really believe that the  
6 domestic barge and towing industry already  
7 has a transparency of ownership in control  
8 of vessels and domestic trade and that the  
9 synopsis record would be an unnecessary  
10 paperwork.

11 Question 35, Security Alert System  
12 Requirement, that's the maybe.

13 One size really does not fit all  
14 in our industry, and so it would be  
15 impossible to say "yes" or "no." However,  
16 it raises more questions than it answers.  
17 Who would you respond to, who would be  
18 expected to respond to that call? Is it  
19 reasonable to let the crew believe that  
20 someone is going to respond when perhaps the  
21 Coast Guard and no one else has the  
22 capability to respond at that point.

23 Question 37, the Seafarer  
24 Identification Criteria Requirements.

25 The current measures in place are

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1 vessels that would be exempt from this  
2 technology, and we don't want to start with  
3 that.

4 If there is a certain class of  
5 vessel that would be exempt from this, it  
6 wouldn't be good in any of this -- for  
7 instance, small shrimp boats or something  
8 that couldn't afford this technology, they  
9 can make special provisions of crossing such  
10 regulated navigational areas and maybe radar  
11 areas where they could be detected, but we  
12 feel all vessels, regardless of class,  
13 regardless of size, should be outfitted with  
14 automatic information systems.

15 Thank you very much.

16 MR. KEN WELLS:

17 Ken Wells, the American Waterways  
18 Operators.

19 Our responses to Questions 33 to  
20 40 would be "No," "No," "Maybe," "Maybe,"  
21 "No," and "It Depends."

22 To 33, as to permanent hull  
23 markings on domestic vessels, no. As the  
24 Coast Guard suggested in request for  
25 comments, domestic barge and the towing

1 adequate. AWO has some questions and  
2 concerns about the identification system  
3 that's being envisioned, as the Coast Guard  
4 works on that and as the rule-making moves  
5 forward, we look forward to working with you  
6 on it.

7 Question 38, Advanced Notice of  
8 Arrival Requirements, further requirements  
9 are they needed for the Mississippi and  
10 above and other tributaries, no. The  
11 current system on the upper rivers is  
12 adequate. We have made our comments to the  
13 rule-making and we'd refer you to that.

14 And then finally, Question 40 on  
15 the AIS systems.

16 AIS supports the use of AIS from a  
17 safety perspective; however, we have some  
18 real questions and concerns about the true  
19 value of this from a security perspective.

20 AWO urges the Coast Guard to only  
21 require AIS where it has the existing  
22 infrastructure in place to monitor traffic  
23 for security purposes. Our association also  
24 does not believe that AIS should be required  
25 for barges. We believe that AIS will be on

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1 board towboats and that would meet the  
2 security and safety requirements, therefore,  
3 there's not a value in placing it on  
4 individual barges.

5 Thank you very much.

6 MR. PETER HILL:

7 Peter Hill, Risk Reliability &  
8 Safety Engineering.

9 I have a comment on 36, Fixed and  
10 Floating Platform Security.

11 I believe all units that are  
12 operating in a given environment should be  
13 treated consistently. The exclusion of  
14 fixed and floating platforms could have the  
15 adverse consequence of actually highlighting  
16 these units as potential targets; however, I  
17 do agree with Mr. Cottone's statements  
18 earlier that regard the various standards  
19 that have developed in this area, the  
20 various standards that have already been  
21 developed in this area as being considered  
22 adequate, and under a performance-based  
23 regulation we believe that that would be  
24 consistent and quite possible.

25 I also believe and agree with

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1 While we don't expect to dissuade  
2 the Coast Guard from adopting Part B in  
3 regulatory requirements, we would point out,  
4 and I'm sure you're aware, that there are  
5 certain parts of Part B that are rather  
6 easily included in security plans. There  
7 are other parts of Part B that affect the  
8 ships that are linked to the ports or port  
9 facilities, and there are certain portions  
10 of it that are linked or affect the port  
11 facilities that are linked to the ships, and  
12 if the Coast Guard is going to adopt Part B  
13 in regulatory language and have non-U.S.  
14 flag ships reporting their compliance with  
15 that, then it has to be done very carefully  
16 and very specifically and that has to be  
17 relayed to the flags that are approving the  
18 security plans, if it is not the United  
19 States Coast Guard, because in reality it's  
20 going to be the ship that's caught in the  
21 middle when it tries to enter a port, and  
22 not knowing just where they stand in that  
23 regard.

24 Finally, with regards to Paragraph  
25 39 in the Coast Guard's assessment of

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1 Mr. Spackman from IADC who made some earlier  
2 statements about the treatment of MODUs  
3 consistent with the IMO code that when a  
4 MODU is operating, its operation is far more  
5 akin to that of a platform. And that also  
6 as a corollary to that, when a MODU is  
7 underway and moving, it's got very little of  
8 anything that might be of any interest as a  
9 potential target because it's essentially  
10 got fewer people, no cargo, et cetera. So  
11 it's treatment under the security provision  
12 should match those of a fixed or floating  
13 facility.

14 Thank you.

15 MR. TED THOMPSON:

16 Good afternoon. Ted Thompson,  
17 ICCL. One last time.

18 We would agree with the comments  
19 of Ken Wells and the American Waterways  
20 Operators on the permanent hull marking  
21 requirement as ridiculous. We have felt  
22 that for quite some time.

23 With regards to Paragraph 38,  
24 Advance Notification of Compliance with  
25 Part B.

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1 foreign ports, we would urge that the Coast  
2 Guard look at foreign port facilities, not  
3 foreign ports as a total, because the lack  
4 of security or acceptable security, say, in  
5 a container yard in a non-U.S. port may  
6 cause the port or port facility not to be  
7 acceptable to the Coast Guard, and yet a  
8 cruise ship or other passenger ship may call  
9 miles away from that container yard and have  
10 nothing to do with the containers, and the  
11 passenger portion of that port would be  
12 totally acceptable with regards to security.  
13 And we would not want to be restricted in  
14 any way because of the shortcomings of some  
15 of their portion of a port facility that we  
16 were not calling on.

17 Thank you.

18 MR. JOE PORTO:

19 Joe Porto with the U.S. Attorney's  
20 Office, Southern District of Texas.

21 On Item 39, Title 46, United  
22 States Code, Section 70108. Should the  
23 Coast Guard accept approval of foreign port  
24 security plans is a preliminary indication  
25 that the foreign port is maintaining

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1 effective anti-terrorism measures and what  
2 should it consider in assessing  
3 effectiveness and anti-terrorism measures at  
4 foreign ports. The Coast Guard should  
5 assess through its intelligence sources and  
6 the new Department of Homeland Defense what  
7 threat and what types of shipments are being  
8 made from those ports, as well as any  
9 trans-shipments through those ports, whether  
10 it is a country on the OFAC list as a  
11 designated enemy of the state under Title 50  
12 as well, and to determine whether that  
13 country, in fact, supports terrorism.

14 Thank you.

15 MR. GEORGE DUFFY:

16 My name is George Duffy with  
17 Navios Ship Agencies. I want to address  
18 some things on the Advance Notice of  
19 Arrival. The 96-hour requirement to the  
20 Coast Guard and the sharing of this  
21 information.

22 Coming from two days in Washington  
23 with meetings with Customs, they're looking  
24 at a separate 24-hour reporting period. We  
25 have USDA Food & Drug Administration now

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1 code, but they are not even able to certify,  
2 verify what is inside of those containers.  
3 There are about 12 million containers that  
4 come into the U.S. from overseas.

5 My question that I'm just going to  
6 leave open, and I hope you all will look at  
7 the aspects of the cargos, we believe we're  
8 tracking the vessels but when they're in  
9 containers -- open question.

10 MR. CHARLES KING:

11 I'm Charles King for Buffalo  
12 Marine Service in Houston. I'm a vice  
13 president, and I want to wholeheartedly  
14 endorse the comments of Mr. Ken Wells on  
15 behalf of the American Waterways Operators  
16 Association and offer a couple of other  
17 comments about transportation workers  
18 identification cards.

19 I think we need to take a good  
20 look at what this is going to provide for us  
21 and realize that we now have agencies who  
22 are issuing various identification documents  
23 of sorts, be it a visa for a student or a  
24 resident alien or a non-resident alien,  
25 whatever all of the classifications might

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1 looking at some new reporting information on  
2 vessels. This should be standardized.  
3 Should be in the Coast Guard or Homeland  
4 Security database with this information, so  
5 that if a vessel calls ten U.S. ports, that  
6 each port, Customs, Coast Guard, whoever, is  
7 sending this information to the database so  
8 that is available to each and every one of  
9 the captain of the port's office.

10 On new arrivals of vessels, I can  
11 see them requesting prior port information,  
12 but the data is mostly there, but it's not  
13 being accumulated, and I think we, once  
14 again, have to have some kind of unification  
15 of this information to have it reported one  
16 time and shared among the government  
17 agencies.

18 Thank you.

19 MR. BART LOOMIS:

20 Bart Loomis, J.H. Menge & Company.  
21 Recently I was down in the Panama  
22 Canal Zone and only one particular facility,  
23 Mensanayo International Terminals (phonetic  
24 spelling), moved one million 20-foot  
25 contains in the last 12 months. They bar

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1 be, and what have we been able to do or  
2 control in issuing those documents. If  
3 we're not going to be any better than that,  
4 then we might save some money by not  
5 worrying about it and maintaining the status  
6 quo that the Coast Guard has established in  
7 the regulations at this point.

8 MR. MIKE MORRIS:

9 Good afternoon. My name is Mike  
10 Morris with the Houston Pilots.

11 And I would like to reiterate what  
12 Doug Grubbs has said about AIS. I feel it  
13 is important to have a hundred percent  
14 participation on our waterways in the  
15 U.S. We're talking today about AIS as a  
16 security tool. As a pilot, I look forward  
17 to it as a collision avoidance tool, better  
18 than radar, better than ARPA. However, if  
19 we end up with some users that have it and  
20 some users that do not have it, my fear is  
21 that you're going to have a dangerous tool  
22 and it's going to set us up for some  
23 AIS-assisted collisions, if you will.

24 Thank you.

25 MR. ALAN SPACKMAN:



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1 Alan Spackman, International  
2 Association of Drilling Contractors.  
3 On the issue of hull markings, we  
4 reiterate the comments that we made at IMO  
5 that anything that can be defeated by a can  
6 of paint or a roll of duct tape ought not to  
7 be considered a security measure.

8 On the issue of seafarers  
9 identification, the ILO has steadily moved  
10 away from the identification of offshore  
11 industrial workers as seafarers. We cannot  
12 foresee what ILO is going to end up doing as  
13 far as those persons internationally;  
14 however, on the basis of what they have done  
15 thus far, we would expect that they would be  
16 excluded.

17 While the U.S. Tax Code has  
18 largely dissipated the U.S. Flag MODU fleet  
19 working overseas, we, nonetheless, do have  
20 MODUs working offshore in foreign areas  
21 where we are required to use agency labor.  
22 Those persons come on board from the host  
23 coastal state with or without identification  
24 based on the needs of the labor force in the  
25 area.

1 Guard for a count of licensed and documented  
2 personnel in the U.S. Merchant Marine. We  
3 asked Congressman Tauzin when the Coast  
4 Guard didn't answer our flyer request back  
5 in 1992, and he encouraged us by saying that  
6 within five years the Coast Guard would be  
7 able to keep track of all the mariners, all  
8 the licenses and merchant mariner documents.

9 I'd like to point out, however,  
10 even if they could, which I don't think they  
11 can today, and I say that because I sent a  
12 duplicate request to Admiral Lloyd twice  
13 within the past year or so, and got no  
14 answer to it, that merchant mariner  
15 documents are required on vessels over 100  
16 gross tons offshore. They're not required  
17 inland. Therefore, deckhands, engineers,  
18 cooks, tankermen -- tankermen have to have  
19 an MMD, but deckhands, engineers and cooks  
20 don't. And what about all these vessels  
21 under 100 gross tons? The 100-gross ton  
22 benchmark has been one that was set many  
23 years ago, and out in oil field service,  
24 people built hundreds and hundreds of  
25 vessels so that they would squeeze under a

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1 With regard to the continuous  
2 synopsis record, I would reinforce what  
3 Mr. Gormanson said earlier regarding its  
4 application to vessels that may or may not  
5 have been required to be registered or  
6 documented in the U.S.

7 In looking at the Coast Guard's  
8 cost analysis, it is quite clear that the  
9 Coast Guard has counted as U.S. flag vessels  
10 vessels that were long ago transferred to  
11 foreign registry. If we are to keep a  
12 continuous synopsis record, the Coast Guard  
13 is going to have to come to grips with what  
14 it does with its own documentation records.

15 Thank you.

16 MR. RICHARD BLOCK:

17 Richard Block, Gulf Coast Mariners  
18 Association. Comment on 37.

19 I believe we should capture  
20 information in a central database on all  
21 mariners to avoid a monstrous security  
22 loophole. We believe that lower level  
23 mariners make up a majority of all mariners,  
24 or I should say that we guess that they do.  
25 We have asked, since 1992, from the Coast

1 hundred gross tons. Merchant mariner  
2 documents are not required on those vessels.

3 What about hiring people with  
4 felony convictions, are they still going to  
5 be accepted? I understand that many  
6 companies used people with questionable  
7 backgrounds because they were simply live  
8 bodies and available. Is the Regional Exam  
9 Center still using a hot list to contact  
10 mariners that they can't find, because  
11 you're not really required to give the Coast  
12 Guard any notice of change of address, and  
13 the only time that the Coast Guard can count  
14 on seeing you is once every five years for  
15 license renewal.

16 Also, many licenses are renewed  
17 for continuity purposes. These licenses are  
18 not valid. Is this an unnecessary burden  
19 for the Coast Guard.

20 I can remember, during World War  
21 II, an elderly gentleman who was a good  
22 friend of mine was a citizen of German  
23 nationality. He was not allowed to work on  
24 the water because of his nationality. Are  
25 we going to play the game the way that we

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1 played it in World War II, which we won, or  
2 are we going to be politically correct?  
3 These are a number of questions we need  
4 answered.

5 Thank you.

6 MR. CHANNING HAYDEN:

7 Channing Hayden, Steamship  
8 Association of Louisiana on Foreign Port  
9 Assessments.

10 We would recommend that you would  
11 look at two Customs programs. One being the  
12 CT PAT, which is Customs Trade Partnership  
13 Against Terrorism and see how that might be  
14 integrated and used to assess foreign ports  
15 if the vessel, the terminals and the  
16 stevedores in those foreign ports are  
17 participating in that program.

18 Customs has another program called  
19 the Super Carrier Initiative which is  
20 basically to fight against drugs. It is a  
21 way of trying to prevent the smuggling of  
22 drugs into the United States. It seems to  
23 me that an expansion of that program would  
24 also cover weapons of mass destruction,  
25 terrorists trying to slip into the country,

1 different ships into a small terminal, and  
2 we're not -- how we keep track of the guys  
3 on board coming transient in and out all the  
4 time.

5 Thank you.

6 MR. JACK TARAVELLA:

7 Hi, Jack Taravella, TSI, Vice  
8 President, Houston, Texas.

9 With respect to your Question 40,  
10 when and where can we expect to see final  
11 clarification on requirements for UAIS with  
12 respect to the date required to be working  
13 on a vessel by class, size, tonnage. That  
14 is July 1st, 2003, the first survey after  
15 July 1st, 2003, or July 1st, 2004.

16 Thank you.

17 MR. REG WHITE:

18 Reg White, representing the Ocean  
19 Tourism Coalition of Hawaii and a member of  
20 the Passenger Vessel Association.

21 In regards to Question 34, small  
22 passenger vessels that are inspected have a  
23 continuous record already in their  
24 inspection realm and also they have the  
25 continuous record of ownership with the

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1 et cetera. And Customs and Coast Guard  
2 could work together using that program as  
3 part of the foreign port assessment.

4 Thank you.

5 MR. MIKE KICE:

6 Mike Kice, P&O Ports.  
7 Question No. 37, Seafarer  
8 Identification.

9 Being a terminal operator, we're  
10 going to be faced with having the seaman  
11 coming on and off the ships and they're  
12 going to be going in and out of our terminal  
13 gates and they're going to be transient  
14 through our terminal, so under the question  
15 you had of additional forms of  
16 identification, I would propose there be  
17 something similar to the TSA card system  
18 where we would be able to automatically  
19 swipe it, if possible. If not, some type of  
20 standardization from the Coast Guard telling  
21 us what we can accept and what we can't  
22 accept, whether passports or things along  
23 that line would be acceptable or not, and  
24 then how we keep track of that, because  
25 we're going to have people from all

1 documentation. So those vessels on a  
2 domestic voyage need no other further  
3 recordkeeping. Also, the Coast Guard  
4 annually witnesses drills on those vessels,  
5 so they have a full record of that as well.

6 As far as the alarm is concerned,  
7 the silent alarm, I would direct your  
8 attention to the number of false alarms that  
9 come in from EPURBS and now from the DSC  
10 distress system. The Coast Guard is not  
11 equipped to listen to the DSC system yet,  
12 but we who do listen to it can attest  
13 already to the number of false alarms that  
14 come in.

15 I would further suggest that any  
16 domestic vessel on a local cruise in cell  
17 phone range has about 60 crew members with  
18 cell phones who can call in any time there's  
19 any sort of a problem, and it's a lot less  
20 likely to a have a false alarm.

21 In issuing ID cards, please use  
22 one format. We're all simple minded. We  
23 don't want to learn 22 different kinds of ID  
24 cards. Make it simple and keep it one form.

25 Until you get an AIS transponder

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1 that identifies I'm a bad guy or a good guy  
2 automatically, it's of no value to security.  
3 We just know a boat is coming, but we don't  
4 know if it's good or bad, so it doesn't help  
5 us Securitywise.

6 As far as costs are concerned, I  
7 would show you this vessel security plan,  
8 the company is now bankrupt so I guess it's  
9 okay to pass it around. The plan cost  
10 \$255,000 to make. It was approved in 1997  
11 under CFR 155 1030. The thing is 61 pages  
12 long. For that reason I urge you to  
13 consider the excessive cost of this to the  
14 smaller operators. I wish you to consider  
15 some kind of fill-in-the blank forms or some  
16 very easy simple format. \$255,000 is as  
17 much as we pay to buy another boat. We can  
18 triple our income, if we could do that.  
19 Don't want to go out of business, don't want  
20 to unemploy our employees, but we agree with  
21 you that a plan is fine. We just need a way  
22 to do it that does not put us out of  
23 business at the same time.

24 And I would also point out that  
25 this is the cost to alarm one of our vessels

1 the maritime industry, we can all come up  
2 with examples of things that don't fit into  
3 any kind of a general plan. I think that's  
4 some of it, and we're going to have to look  
5 at some of those issues, MODUs in  
6 particular, just how we're going to manage  
7 those. We appreciate your input on that.  
8 And, also, concerns about undocumented  
9 vessels operating overseas. That's  
10 something I don't think we really thought  
11 of, but thanks for that input and we'll take  
12 a look at that.

13 Some questions about offshore  
14 platforms. Again, the idea that they  
15 present a very low risk of being involved in  
16 what's defined as a transportation security  
17 incident, that is something that we have  
18 discussed before. Of course, there are some  
19 exceptions possibly. There are some  
20 platforms or pipeline junctions we might  
21 have to look at that would require  
22 individual plans.

23 We have been working with the Gulf  
24 Safety Committee, Commander Scott in  
25 particular, and we will continue to do so to

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1 and one ticket office. It's a small pier,  
2 the same boat runs in and out of the same  
3 pier everyday three times and the office is  
4 right in front of it. We don't own the  
5 pier. \$77,000 was the cost of the equipment  
6 to put a proper alarm system in to assure  
7 that we are monitored at all times for  
8 stores and arrivals, as well as any  
9 operations that go on on the pier. It's a  
10 good system. We did all the labor  
11 ourselves, it's not counted in there, and I  
12 have no idea what the labor cost was.

13 Thank you very much.

14 **COMMANDER ENGLEBERT:**

15 Okay. Thank you for your  
16 comments. I will ask the panel to discuss  
17 what they heard and let's talk a little bit  
18 more about that.

19 **CAPTAIN DALE:**

20 Well, thank you very much. That  
21 was a real grab bag of a lot of different  
22 things and we appreciate your input.

23 Good comments on some of the  
24 concerns about nonself-propelled MODUs.  
25 With the diversity we're facing out there in

1 look at perhaps some nonregulatory solutions  
2 or incorporation by reference into the  
3 regulations that might serve our purposes,  
4 so we appreciate your continued input on  
5 that.

6 Some questions on fraudulent  
7 seafarers identification and preventing  
8 fraudulent documents, I recognize that's a  
9 problem. How good is an identification  
10 document. It's as good as whoever issued  
11 it. Fraudulent documents will always be  
12 with us. I think part of the drive to come  
13 up with some sort of international standards  
14 for seafarer identification is to make it  
15 more difficult to counterfeit a document, to  
16 build in some sort of biometric indicators  
17 and stuff, and trying to get international  
18 agreement on that is a challenge to say the  
19 least. But the idea of fraudulent  
20 documentation is one of the factors driving  
21 the international community to try to solve  
22 that problem or at least take some steps in  
23 that direction.

24 Let's see. The question on the  
25 AIS implementation dates, that's a very good

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1 one. We'll have to be very clear on that  
2 one. I'm not sure I caught all your  
3 questions, but, yes, there is a whole series  
4 of implementation deadlines and we'll have  
5 to make sure that's very clear in whatever  
6 regulation is published. But you're  
7 correct, we want to eliminate confusion and  
8 we appreciate the input. If there's  
9 confusion out there, I'm sure it's fairly  
10 widespread, so we appreciate that input.

11 Do our colleagues from TSA want to  
12 discuss -- there's a variety of  
13 credentialing issues.

14 MR. BUD HUNT:

15 My name is Bud Hunt. I'm with TSA  
16 Maritime & Land Security, specifically in  
17 the Maritime Cargo Group.

18 I just wanted to speak to  
19 Operation Safety Commerce. There's been a  
20 number of comments today on container  
21 security. Operation Safe Commerce was  
22 funded by the Congress through a fiscal year  
23 '02 supplemental, approximately \$28 million  
24 put aside for that. We're entering into a  
25 series of cooperative agreements with the

1 safe commerce would be to identify perhaps  
2 initially best practices that the industry  
3 can enter into. The idea of looking at  
4 domestic regulations and ultimately we  
5 recognize that supply chain security has to  
6 be enacted throughout the entire  
7 international container market, so that  
8 would be our ultimate goal.

9 We also wanted to speak just a  
10 little bit to the TWICK program. Tony first  
11 spoke to that earlier today. There are two  
12 pilot projects that are about to start, one  
13 in Philadelphia in the Delaware River, and  
14 the other in the Port of L.A./Long Beach.

15 From what I understand, the TWICK  
16 activity is trying to solve the problem for  
17 both the Government and the industry so that  
18 there is a uniform form and format, uniform  
19 standards that could be adopted across all  
20 modes of transportation to try to roll in  
21 some of the Coast Guard requirements from  
22 merchant mariners documents and other  
23 requirements.

24 We've been besieged by many ports,  
25 trucking associations, that talk about a

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1 three largest container load centers in the  
2 United States. The idea is to examine  
3 supply chain security throughout the entire  
4 length of a supply chain. We're looking for  
5 the identified ports to recommend a series  
6 of projects that will be tested ultimately  
7 in the specific supply chains.

8 I think the interesting idea is  
9 we're not only interested in technological  
10 solutions, but are there business practices  
11 that should be reviewed and looked at with  
12 the idea of perhaps they're not providing  
13 for the supply chain to be as secure as it  
14 could be.

15 When we've identified potential  
16 solutions, we're going to enact them in  
17 actual supply change from these actually  
18 five ports. We're aware that some of them  
19 may be successful, some of them may not be  
20 successful. Even in those that fail, we  
21 feel there will be some value because we'll  
22 know that they are not perhaps appropriate  
23 as a solution to enhancing supply chain  
24 security.

25 The ultimate product of operation

1 trucker that works the East Coast, for  
2 example, could have dozens of credentials  
3 and they seem to be costly and duplicative,  
4 and we hope that the TWICK program will  
5 ultimately solve that problem.

6 Thank you.

7 COMMANDER ENGLEBERT:

8 Okay. To clarify some things  
9 about credentialing. You saw on the notice  
10 anything that would happen in the maritime  
11 environment to do with credentialing, we  
12 would end up having to write a notice on  
13 that, so it's not something that you can  
14 anticipate in June. And speaking of which,  
15 let me move to what you can anticipate.

16 As I said earlier, the submission  
17 of comments is due by the 28th of February.  
18 This is one way to submit. The instructions  
19 on how to get to the docket are included in  
20 there, so you can get to the docket, and it  
21 has a wealth of other information. Besides  
22 being able to see the transcript of this  
23 meeting, it will have the transcript of the  
24 other six. They last one being held on  
25 February 11th.

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Besides that, it has all of the navigation vessel inspection circulars that deal with security and you will be able to see the comments that are submitted to the document from other maritime industries.

When I'm done here, I'm going to leave this up. There's another way to submit comments and I want to make sure that you remember this. There's a second way to submit privileged information or what you believe is security-sensitive information to us so that you can give us more specific information. It would not be considered a public document, but we would be able to see it and take it into account. Obviously, it's not an electronic submission. Either way, either one of these forms will be available.

Somebody also asked me about this Power Point presentation and whether it would be available. It will be posted on the docket, so all of these slides that you have seen here today will be on the docket as soon as I can get them on the document tomorrow.

program last year. The grant program is open again, as I understand, and I've asked Mr. Barberesi to just mention it and fill you in a little bit on it, or Mr. Rybicki, which either one of them would like to talk to you about it at this time.

MR. RAY BARBERESI:

Thank you. The Port Security Grant Program, as we have discussed a little bit earlier, is actually a transportation security agency program that was created by a supplemental funding appropriations for fiscal year '02. The reason that sometimes people point initially to the Maritime Administration is because we are one of the partners in the program. It's been a joint effort between TSA or among TSA, the Maritime Administration and the Coast Guard. The first round of grants, as you're probably all well aware, provided for \$92.3 million in grant funding over 50 ports and terminals in the United States.

The current issue of grant availability -- just so happens, I think the slide is gone, but the application process

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Now, as far as a time line, there was some discussion in the notice, and I want to make sure that everybody is very clear about that time line. I mentioned the credentialing issue. But for the vessel facility and port plans requirements and the suite that we were discussing today, the time line is very specific in the notice. It says that there will be an interim final rule published the spring of this year, and it's anticipated that the final rule will be done by November of this year. Those dates coincide with the MTSA requirements and also the SOLAS requirements. So it really is important for you to submit your comments and make sure that we understand your issues, and if you do not believe that we caught everything, or you want to make sure that the discussion is thoroughly put in the docket, please submit written comments to us.

Besides that, I wanted to make sure that you were aware of another issue, and that's the grant program. As you know, there was a series of grants in the grant

ends the day before this docket closes on February 27th. In that there's \$105 million for port security assessments, physical enhancements and proof of concept just as the first round of grants provided.

Steve, I don't know if you wanted to offer anything from TSA's perspective at this point.

MR. STEVE RYBICKI:

Perhaps the confusion earlier on, and I got some questions at the lunch break, the original monies, the first round of port security grants, the monies, the funding came to TSA, we partnered with Coast Guard and MARAD and MARAD actually did the administration of that, the 92.3. The second round of grants totaled 125 million, of which 105 million is set aside, as Ray said, for port security, port assessments and the like. 20 million is retained at TSA for which we hope to release some money soon for national exercises, so 105 is currently available. The applications, you can go to the TSA web site, [www.TSA.gov](http://www.TSA.gov). We will be closing that on the 27th of February, and we

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1 will be managing it and funding it out of  
2 TSA. We are doing this jointly with the  
3 Coast Guard and MARAD and we expect that in  
4 the future, what MTSA, some of the grants in  
5 the future may end up at MARAD, but I think  
6 from our past experience we'll be working  
7 collaboratively with all of the agencies  
8 involved in putting together working groups  
9 to actually judge and sit and set the  
10 criteria.

11 So you may see different faces or  
12 may hear it in the press, but regardless of  
13 which agency actually has the money that's  
14 appropriated to it, rest assured it is a  
15 joint process. We're not doing anything in  
16 a vacuum. We're working very closely with  
17 Coast Guard and MARAD in this as we are in  
18 other TSA grant initiatives. We have some  
19 money that may not be of interest to you  
20 folks, but we have some 15 million right now  
21 available on the over-the-road bus program  
22 and bus terminals. We have some money  
23 that's available we'll be coming out with  
24 for radiation detection devices, we have  
25 Operation Safe Commerce, which Bud just

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1 spoke to.

2 Some of those funds, although we  
3 are managing those funds and managing the  
4 program and funding it out of TSA  
5 appropriations, we are working together with  
6 other stakeholders, other Federal agencies  
7 in setting that up. So I just wanted to  
8 clarify that for the record.

9 MR. RAY BARBERESI:

10 I can confuse you a little more,  
11 if you're not thoroughly already.

12 The security grant program that  
13 exists was supplemental funding providing  
14 emergency funding, more or less, for  
15 security requirements. The grant program  
16 that's provided for in the MTSA is, in fact,  
17 a longer term, more permanent-type grant  
18 program, provides for authority to the  
19 Maritime Administration for fiscal years '03  
20 through '08.

21 That's the good news. The bad  
22 news is there was no appropriation with it.  
23 So it's right now unfunded. The authority  
24 exists there for a longer term more  
25 permanent program that will be a little bit

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1 more expansive than the emergency-type  
2 program that we've done together for the  
3 past few months. It will be a matching  
4 program. The Federal government will supply  
5 75 percent of the funding in the MTSA Port  
6 Security Program. It will actually look to  
7 implementing the Coast Guard's area maritime  
8 transportation security plans and  
9 implementing facility security plans, so it  
10 will be looking directly to those to  
11 mitigate vulnerabilities that are existing  
12 and are identified, and the eligibility will  
13 cover a larger range of things that are  
14 currently available in the emergency funding  
15 programs that exist.

16 The important thing to remember is  
17 that there is not money there yet. The  
18 department has been tasked with providing to  
19 the Congress those estimates which the Coast  
20 Guard is already working on, and I think the  
21 important thing is that we have been at the  
22 Department of Transportation working very  
23 well together. The fact that some agencies  
24 will be leaving the Department of  
25 Transportation will not cause us to stop

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1 working very well together, and as Steve  
2 pointed out, this needs to be a  
3 collaborative effort, and even if it's  
4 across departments, it will continue to  
5 exist that way because the bottom line is  
6 we're trying to make our marine  
7 transportation secure.

8 Thanks.

9 COMMANDER ENGLEBERT:

10 Okay. I'm going to open the floor  
11 for any general questions, if there is  
12 anybody that has any general statements they  
13 would like to make at this time; otherwise,  
14 we will adjourn this public meeting. So I'm  
15 just going to give you a minute.

16 Are you all stepping up to make  
17 comments or stepping up to go?

18 UNIDENTIFIED SPEAKER:

19 I want to ask -- this is an  
20 aggressive time line that you're on as a  
21 result of the Marine Transportation and  
22 Security Act. When we see the interim final  
23 rule and then the final rule, what is your  
24 prognosis for being able to change it, which  
25 will, I'm sure, be necessary after the

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1 implementation of the provisions that are  
2 easily implemented. There's bound to be a  
3 necessity for change. Is there an  
4 aggressive opportunity to amend those  
5 regulations just like get the initial out?

6 CAPTAIN DALE:

7 I don't think there's the -- the  
8 opportunity to amend these things is going  
9 to be much more difficult than creating  
10 them, so it will be like amending any final  
11 rule. There will be some time between when  
12 the interim rule is published in the spring  
13 and the final rule is published in the fall  
14 to incorporate some, I think, small changes,  
15 but the time to get your comments in is now  
16 before we get them on the street. Other  
17 than that, it's going through the entire  
18 process to amend an existing regulation,  
19 which is going to be very difficult.

20 MR. AL ROUGEAU:

21 Yes. Al Rougeau, Reson,  
22 Incorporated. Sales and engineer manager  
23 for Reson Gulf South.

24 Reson is a manufacturer and  
25 worldwide supplier of sonar systems,

1 is a precedence of security concerns over  
2 ADA concerns. We've had this trouble with  
3 watertight door seals and other things in  
4 the past and we need to address this sort of  
5 thing at the present time, that when  
6 security is the major consideration, that it  
7 does take precedence over ADA access.

8 Thank you.

9 MR. RICHARD BLOCK:

10 Richard Block of Coast Mariners  
11 Association. A possible correction. Page  
12 79783, Table 2, Footnote 2 states, "Towboats  
13 over 50 gross tons. This is a good proxy  
14 for towboats less than 6 meters."

15 I disagree. 50 gross tons, you're  
16 closer to five gross tons for six meters.

17 Also, in Table 2, the number of  
18 towboats greater than 6 meters is shown as  
19 5645, previous rule makings arranged from  
20 5200 to 6200.

21 Also, the number of companies on  
22 Page 79792, I have a question on Bullet No.  
23 1, 2, 3, 4, Bullet 4, that cites that there  
24 are 1398 companies, company owns only  
25 towboats or barges. Previous rule-making, I

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1 including port and vessel security threat  
2 detection and classification systems.  
3 Relating to security alerts and the  
4 questions and discussions on the various  
5 protection, asset protections today, I would  
6 like to bring to attention that one critical  
7 aspect of security that still remains, for  
8 the most part, unaddressed. That is  
9 vulnerability to submerged threats.

10 To preface, if you recall, the  
11 nation was put on alert twice in 2002 for  
12 the possible attack by divers or other  
13 underwater ordinance delivery systems. We  
14 now have the technology to detect these  
15 types of threats. The Navy's NAVSEA  
16 facility at Crane actually did tests on  
17 several sonar systems and proved, verified  
18 their detection capability.

19 MR. REG WHITE:

20 Reg White from Hawaii.

21 It just crossed my mind that in  
22 hardening one of our control stations in  
23 advance of these rules, we had to deny ADA  
24 access to a portion of our ship. Is there  
25 any chance of adding in the rules that there

1 think it was someplace around 1100 towing  
2 companies. Just to be checked.

3 Thank you.

4 COMMANDER ENGLEBERT:

5 Okay. One administrative issue.

6 If you did speak today and you did  
7 not put your card in the box or a piece of  
8 paper with your information in the box in  
9 front of the microphone, please do so before  
10 you leave.

11 CAPTAIN DALE:

12 Okay. On behalf of Admiral  
13 Hereth, who, unfortunately, had to leave us  
14 a little early and also Mr. Barberesi and  
15 Mr. Rybicki, who are here today, and all the  
16 staff, I really want to thank you for your  
17 time and for your participation. You've  
18 given us some really great comments. It's  
19 obvious to me you came well prepared. A lot  
20 of these we've heard before. A lot of them  
21 were brand new to us, angles we hadn't  
22 thought of, but you put a lot of the real  
23 tough issues into sharp focus for us, and  
24 that's going to help us do a better job.

25 I want to reinforce our commitment

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1 to remaining open and transparent in the way  
 2 we proceed with these regulations. We've  
 3 tried very hard to broadcast what we intend  
 4 to do, what our thinking is, even if it's  
 5 not fully formed yet, to let you guys know  
 6 where we're going, and we want to continue  
 7 to do that and to be open about this and to  
 8 let you know where we're at and where we're  
 9 thinking about going and share with you our  
 10 plans.

11 And just a final reminder, I think  
 12 we stressed this a few times, that this  
 13 regulatory program is on a very fast track.  
 14 We're doing a whole series of these public  
 15 meetings within about the next ten days, but  
 16 we are really on a tight deadline to publish  
 17 final rule, an interim final rule by spring  
 18 and to finalize that by the fall, so the  
 19 opportunity to get your comments in is right  
 20 now, and, please, if you want to submit  
 21 additional things to the record, we  
 22 appreciate that and they will be read.

23 That's it. I just want to thank  
 24 everyone because you've put a lot of time  
 25 and effort into this, and it's been really

# REPORTER'S CERTIFICATE

1  
 2  
 3 I, MARIE T. TORTORICH, Certified  
 4 Shorthand Reporter, do hereby certify that  
 5 this Coast Guard hearing was reported by me  
 6 in shorthand and transcribed under my  
 7 personal direction and supervision, and is a  
 8 true and correct transcript, to the best of  
 9 my ability and understanding;

10 That I am not related to the parties  
 11 hereto, and not in any way interested in the  
 12 outcome of this matter.  
 13  
 14  
 15  
 16

17  
 18 MARIE THERIOT TORTORICH  
 19 Certified Shorthand Reporter  
 20  
 21  
 22  
 23  
 24  
 25

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1 helpful for us. We appreciate it and we'll  
 2 see you all around.

3 Thank you very much.

4 And before you all run out, I want  
 5 to just thank Commander Sue Englebert who  
 6 did such a good job with the tough emcee  
 7 duties here, too. I appreciate that.

8 (Whereupon, the hearing was  
 9 concluded.)  
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